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ABSTRACT

This comprehensive trainer's guide and participant manual are designed to provide a planning process through which training programs on the Americans with Disabilities Act (ADA) and its implications for persons with cognitive disabilities can be developed and delivered in a systematic way. Module 1 of the trainer's guide, "Planning and Coordinating ADA Training: Suggested Guidelines for Implementation at the State and Local Level," includes information to coordinate, custom design, and implement training. It addresses training needs assessment, identification and recruitment of participants, agenda development and recruitment of instructors, calculation of training costs, program and site coordination, packaging of instructional materials, program evaluation, and training delivery. Module 2, "Informational Resources To Enhance Training," contains information on accommodations requirements, a bibliography and list of resources, and a directory of Illinois state resources and federally funded ADA technical assistance. Module 3, "Trainer's Outline and Transparencies," includes extensive training notes and information sheets to be used as transparencies. Module 4, "Participant Manual," provides information on the disability movement; an overview of the ADA; a discussion of "reasonable accommodation" requirements; and a review of components of ADA's Title I, Title II, and Title III. Each module also contains appendices which provide examples of training materials, additional resources, and references. (CR)

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TRAINER'S CURRICULUM

THE ADA AND PERSONS WITH COGNITIVE DISABILITIES

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THE ADA AND PERSONS WITH COGNITIVE DISABILITIES

Developed by the staff and faculty of Cornell University's Program on Employment and Disability

The compilation of these materials was made possible by a grant from the Illinois Planning Council on Developmental Disabilities in collaboration with the Great Lakes Disability and Business Technical Assistance Center at the University of Illinois at Chicago (Grant No. 9411) to Cornell University's Program on Employment and Disability to serve as an ADA Materials Development and Training Project.

MISSION AND VALUES

Cornell is a learning community that seeks to serve society by educating the leaders of tomorrow and extending the frontiers of knowledge.

In keeping with the founding vision of Ezra Cornell, our community fosters personal discovery and growth, nurtures scholarship and creativity across a broad range of common knowledge, and engages men and women from every segment of society in this quest. We pursue understanding beyond the limitations of existing knowledge, ideology, and disciplinary structure. We affirm the value to individuals and society of the cultivation and enrichment of the human mind and spirit.

Our faculty, students and staff strive toward these objectives in a context of freedom with responsibility. We foster initiative, integrity, and excellence, in an environment of collegiality, civility and responsible stewardship. As the land grant university for the State of New York, we apply the results of our endeavors in service to the community, the state, the nation and the world.

The Program on Employment and Disability, in the School of Industrial and Labor Relations, holds strongly to these values. Our mission is to provide a learning environment which cultivates and facilitates inclusive and accessible communities for individuals with disabilities. We seek to provide resources and information to individuals attempting to manage diversity in the workplace, community, and American life. We are committed to ensuring that Americans with disabilities, including youth, are provided with an opportunity to attain their goals in settings, environments, cultures and communities of their own choosing—based on their respective interests, preferences, capacities and available supports needed to attain these ends.

**I would found an
institution where
any person can
find instruction in
any study.**

Ezra Cornell, 1865

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Module IV: Participant Manual	

Individual *Tables of Contents* for each Module
are provided in their respective sections.

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These information materials were compiled and edited to provide continuing education and training on issues surrounding the Americans with Disabilities Act, its implications for persons with cognitive support needs, and impact on the workplace, community, and evolution of rehabilitation systems. Design and editing of these materials was made possible by a grant from the Illinois Planning Council on Developmental Disabilities (IPCDD) in collaboration with the Great Lakes Disability and Business Technical Assistance Center (DBTAC) at the University of Illinois at Chicago (Grant No. # 9411) to Cornell University's Program on Employment and Disability to serve as an ADA Materials Development and Training Project. Cornell University's Program on Employment and Disability is authorized by the IPCDD in collaboration with the Great Lakes DBTAC to provide information, materials, and training to targeted constituents in the state of Illinois on the Americans with Disabilities Act of 1990. These materials have been reviewed for accuracy by the Great Lakes DBTAC and IPCDD. Some of the materials are drawn from publications previously reviewed by the EEOC. However, opinions about the ADA expressed in this material are those of the author(s), and do not necessarily reflect the viewpoint of either the EEOC, Great Lakes DBTAC, or IPCDD. The information, materials, and training are intended solely as informal guidance and are neither a determination of legal rights or responsibilities under the Act nor binding on any agency with implementation / administrative responsibility. Information contained in this manual was adapted and derived from several sources (as listed below) and on behalf of Cornell University, we wish to extend our sincere appreciation to the following individuals who played a key role in the collection of information within this manual as well as those individuals who played a primary role in the coordination of this project:

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Suter and Company
Springfield, Illinois

Lisa Sherell
Illinois Planning Council on
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Springfield, Illinois

Robin Jones
Great Lakes DBTAC
University of Illinois at Chicago
Chicago, Illinois

Materials contained within this informational resource are the compilation of a variety of NIDRR-funded initiatives and would not have been possible without the collaborative efforts and support of the following: Susanne M. Bruyère, National Materials Development Project, Cornell University; Andrea Haenlin, Northeast Disability and Business Technical Assistance Center, UCP of New Jersey/Cornell University; ADA Core Curriculum Project, Adaptive Environments in collaboration with the Great Plains Disability and Business Technical Assistance Center and Cornell University's Program on Employment and Disability; American Foundation for the Blind; Gallaudet University; and Adaptive Environments under contract to Barrier Free Environments for a Title II Action Guide. In addition, we would like to thank the IPCDD and Great Lakes DBTAC for their assistance in the technical editing of these informational products, and the U.S. Department of Education, National Institute on Disability and Rehabilitation Research without whose support this initiative would not be possible.

We would also like to thank the following faculty and staff of the Program on Employment and Disability whose efforts contributed to the production of this manual: Andrea Haenlin, Melissa Weiss, Michelle Eastman, Deborah Fisher, Sharon VanCampen, and Shelia Smith.

Thomas P. Golden, Project Director
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BIOGRAPHICAL SKETCHES

Program Coordinators and Instructors

Doug Anderson is Technical Assistance Coordinator with the Great Lakes Disability and Business Technical Assistance Center, Institute on Disability and Human Development at the University of Illinois at Chicago. The Great Lakes Center is one of 10 Centers established nationally by the federal government to provide technical assistance regarding the ADA. Mr. Anderson has a bachelor's degree in Psychology from Wheaton College and is currently working on his master's degree at the University of Illinois at Chicago.

Susanne M. Bruyère is currently the Director of the Program on Employment and Disability in the New York State School of Industrial and Labor Relations--Extension Division at Cornell University. Dr. Bruyère has served as the Project Director of the National Materials Development Project on the Employment Provisions of the ADA and as a collaborator on two ADA national and state materials development initiatives. In addition, Dr. Bruyère serves as co-director of the *National Short-Term Training and Materials Dissemination Project on Work Incentives*, and is a collaborator on a national Native Americans initiative with the University of Northern Arizona, Rehabilitation Research and Training Center. Susanne has a doctoral degree in Rehabilitation Psychology, is a New York State certified special education teacher, a certified rehabilitation counselor, and has been designing and conducting training for rehabilitation personnel since 1975.

Thomas P. Golden currently serves on faculty with Cornell University's Program on Employment and Disability. As a faculty member, Thomas serves as a co-director of the *National Short-Term Training and Materials Dissemination Project on Work Incentives and Transition Training and Technical Assistance Project* and, in addition, is a collaborator on an initiative targeting implications of the ADA for persons with cognitive support needs. Thomas brought prior experience in the areas of supported employment, natural supports, community-based assessment, and brain injury rehabilitation to Cornell University's Program on Employment and Disability. He has a master's degree in Rehabilitation Counseling from Syracuse University and is a certified rehabilitation counselor. Thomas resides in Waverly, New York with his wife, Janel and daughter, Sophie.

Robin A. Jones is currently the Project Director for the Great Lakes Disability and Business Technical Assistance Center, Institute for Disability and Human Development at the University of Illinois at Chicago. The Great Lakes Center is one of ten centers established nationally by the Federal Government to provide technical assistance regarding the ADA. She was formally the Executive Director of Progress Center for Independent Living serving individuals with disabilities in the Chicago suburban area. In addition, her prior professional experiences included working as a rehabilitation professional for seven years as well as a member of the faculty within the School of Occupational Therapy at the University of Illinois at Chicago. She has extensive experience in the area of assistive technology and reasonable accommodation and currently serves on the Board of Directors of the Illinois Assistive Technology Project. Robin has been actively involved in advocacy efforts on many levels in relation to individuals with disabilities and is recognized as a key resource regarding ADA compliance.

BIOGRAPHICAL SKETCHES

Program Coordinators and Instructors

(continued)

Rene Christensen Leininger has over twenty-five years experience working to promote the inclusion, productivity and independence of people with disabilities of all ages. She has been the Director of the Illinois Planning Council on Developmental Disabilities since 1993 and was Deputy Director from 1989 until 1993. Ms. Christensen Leininger has also worked in schools, universities and the state's education agency as a teacher, university instructor, behavior specialist and statewide coordinator for the education of students with severe and multiple disabilities.

Lisa Sherell has worked for the Illinois Planning Council on Developmental Disabilities for the last five years as a Program Specialist providing information and training on the Americans with Disabilities Act. She has also worked for the Departments of Public Aid, Children and Family Services, and Mental Health and Developmental Disabilities. During that time, Ms. Sherell worked on the implementation of OBRA '87, assisted families in the adoption of children with disabilities and worked directly with people with disabilities in a state-operated facility.

Sue Suter is the Director of the Springfield Office of the Rehabilitation Institute of Chicago and President of Suter and Company, Springfield, Illinois. Sue has extensive experience in the areas of disability, human services, and public policy. She has served as the Director of the Illinois Department of Rehabilitation Services, Public Aid, and Children and Family Services. Sue has also served as the Commissioner of the Rehabilitation Services Administration for the U.S. Department of Education. Through Suter and Company, Sue has provided ADA training for the Illinois Manufacturer's Association, Illinois Chamber of Commerce, Illinois Health Care Association, Illinois Association of Rehabilitation Affiliates, and Illinois Coalition of Citizens with Disabilities. She has served as a Board Member for several organizations, including: World Institute on Disability, National Commission on Accreditation of Rehabilitation Facilities, Illinois Guardianship and Advocacy Commission, Illinois Easter Seal Society, and chair-elect for the Professional Advisory Committee of the National Easter Seal Society. Sue lives in Springfield, Illinois with her husband and son, Josh.

Barbara Uniek is Technical Assistance Specialist with the Great Lakes Disability and Business Technical Assistance Center, Institute on Disability and Human Development at the University of Illinois at Chicago. The Great Lakes Center is one of 10 Centers established nationally by the federal government to provide technical assistance regarding the ADA. She has a master's degree in Rehabilitation Counseling, and worked in the field as a counselor for various not-for-profit agencies in the Chicago area. She has also been involved in advocacy for people with disabilities both professionally and in her community.

Melissa Weiss is currently a part-time faculty appointment within Cornell University's Program on Employment and Disability. In addition, she serves as the Coordinator of Summit Enterprises, a supported employment program at ARISE, Inc. in Syracuse, New York and is a trainer/consultant for the Career Ladder Program which is a federally-funded model project enhancing school-to-work transition for youth at risk and youth with mild disabilities. She has presented seminars and provided training related to employment and people with disabilities to large corporations, school districts, and human service agencies. Her experience also includes working with college-bound youth with disabilities. She is a New York State and Washington State Special Education, Elementary Education and Reading Teacher. She has been active in social service organizations and has held leadership roles on agency boards in upstate New York and in Seattle, Washington.

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AGENDA

Day One

- 9:00 a.m. Introduction / Housekeeping
- 9:05 a.m. Opening Remarks / Welcome
- 9:15 a.m. Evolution and Trends in the Disability Movement
- Transition from Institutions to Community
 - Developmental/Functional Supports Model Comparison
 - Person-Centered, Capacity-Based Services and Supports
 - Critical Values in Supporting People with Disabilities
 - ADA Findings
- 10:00 a.m. Overview of the ADA
- Summary of the ADA
 - Overview of ADA Coverage
 - Related Civil Rights Legislation
 - Rehabilitation Act of 1973 as Amended in 1992
- 10:15 a.m. Overview of Title I
- ADA Employment Provisions and Key Definitions
 - Covered Entities
 - Definition of Disability
 - Drug and Alcohol Abuse
 - Areas in which Discrimination is Prohibited
 - Discriminatory Actions
 - Substantially Limits
 - Physical or Mental Impairment
 - Qualified Individual with a Disability
 - Hiring Practices
- 10:45 a.m. Break
- 11:00 a.m. Overview of Title I (*continued*)
- Medical Examinations
 - Confidentiality
 - Health Insurance
 - Reasonable Accommodation
 - Essential Job Functions
 - Evidence for Determining Essential Functions
 - Undue Hardship
 - Enforcement
 - Remedies / Defenses
 - Beyond ADA Requirements
- 12:30 p.m. Lunch
- 1:30 p.m. The Reasonable Accommodation Process
- Reasonable Accommodation Video
 - Process for Determining an Accommodation
 - Cost of Accommodation
 - Practices Toward Accommodation
 - Selected Examples of Accommodations

AGENDA

Day One *(continued)*

- 2:30 p.m. Providing Supports as Part of the Accommodation Process
- ♦ Definition of Supports
 - ♦ Ecology of the Workplace
 - ♦ Four Levels of Work Integration
 - ♦ Definition of Work Culture
 - ♦ Identifying Support Needs of Individuals with Cognitive Impairments
 - ♦ Identifying Naturally-Occurring Supports within the Work Environment
 - ♦ Matching Available Supports / Accommodations to Persons with Cognitive Impairments
 - ♦ Benefits of Using Naturally-Occurring Supports / Accommodations
- 3:15 p.m. *Break*
- 3:30 p.m. Accommodation Case Study
- 4:30 p.m. **END OF DAY ONE**

Day Two

- 9:00 a.m. Overview of Title II
- ♦ Public Entity
 - ♦ General Prohibitions Against Discrimination
 - ♦ Program Accessibility
 - ♦ Effective Communication
 - ♦ Administrative Requirements
 - ♦ Self Evaluation
 - ♦ Enforcement
- 10:00 a.m. Overview of Title III
- ♦ General Obligations
 - ♦ Places of Public Accommodation
 - ♦ Other Requirements
 - ♦ Enforcement
- 10:45 a.m. *Break*
- 11:00 a.m. Introduction to Planning and Conducting Training
- 11:10 a.m. Training Needs Assessment
- 11:20 a.m. Identification and Recruitment of Program Participants
- 11:30 a.m. Agenda Development and Recruitment of Instructors

AGENDA

Day Two *(continued)*

- 11:40 a.m. Calculating Training Costs
- 11:50 a.m. Program and Site Coordination
- 12:00 p.m. *Lunch*
- 1:00 p.m. Packaging of Instructional Materials
- 1:10 p.m. Training Delivery and Conducting Program Evaluation
- 1:20 p.m. Review of Supplemental Materials and Informational Resources
- 1:30 p.m. Review of Trainer's Curriculum
- 2:00 p.m. Summary / Questions and Answers
- 2:45 p.m. Program Evaluation/Trainer Potential Impact Evaluation

END OF PROGRAM

INTRODUCTION TO TRAINER'S GUIDE

Who is this program targeted for?

These materials were designed for trainers with an interest in providing information on the ADA and its implications for persons with cognitive disabilities to individuals with disabilities and their families, rehabilitation practitioners and educators, advocacy and independent living organizations, and others.

How do I use this guide to conduct a presentation?

This guide was designed to provide ADA information in a one-day format or smaller units of particular interest. This product is broken down into four modules focusing on providing the trainer with: information to coordinate, custom design, and implement training; supplemental materials and informational resources; trainer's notes and outlines to conduct the training; and a participant manual for reproduction and dissemination to individuals participating in the training. Easy reference charts have been added to assist in implementing training and defining time parameters and audio-visual equipment required.

How should I begin to prepare for presenting this program?

Critical to the success of any presenter is his or her familiarity with content to be covered, and experience and training in making presentations. We urge the potential user of these materials to become familiar with ADA publications and informational resources on disability rights. Information on how to obtain copies of these publications is listed in Module III of this manual.

Can I get supplemental trainers to assist in implementing this training?

As the lead trainer, you may also want to complement this presentation with the availability of other resource persons who can contribute to a meaningful discussion on legislative rights or persons with disabilities, such as a representatives from your regional DBTAC, local independent living center, or other resources as listed in Module II. Additional informational regarding planning and conducting training is available in Module I of this manual.

Can this program be custom designed?

Yes. When custom-designing a program, it is important to first assess the amount of time available and topics of importance to participants attending the training. Once you have established the amount of time available, a resource chart has been added to Module III of this manual to assist in custom-designing content. For example, if the audience is familiar with basic ADA rights, then you can eliminate or lessen the time for the overview section, and leave more time for discussion, or shorten the presentation overall.

INTRODUCTION TO TRAINER'S GUIDE

Can participants apply attendance at this training toward professional recertification?

Yes. Individuals with professional certifications such as: Certified Rehabilitation Counselors, Certified Vocational Evaluators, Certified Work Adjustment Specialists, Certified Case Managers, and Certified Insurance Rehabilitation Specialists can apply their participation in training toward recertification continuing education requirements. Participants will simply need to contact their certifying organization and provide them with documentation proving their attendance (i.e., a letter from the instructor, a certificate of completion, etc...).

Is there any follow-up technical assistance available to trainers utilizing this curriculum?

Yes. Individuals completing this trainers curriculum conducted by Cornell University's Program on Employment and Disability can receive updated copies of the curriculum and technical assistance by contacting:

Great Lakes DBTAC: Through a federally-sponsored initiative from the National Institute on Disability and Rehabilitation Research, individuals can access follow-up technical assistance by contacting the Great Lakes DBTAC at (800)549-4232.

The ILR Program on Employment and Disability: By contacting the Program, trainers can field questions regarding the curriculum and request updated copies of the trainer's manual for the cost of reproduction and postage.

The IPCDD: By contacting the Planning Council, trainers can field questions regarding the curriculum, ADA content areas, and also request additional copies of the trainer's curriculum.

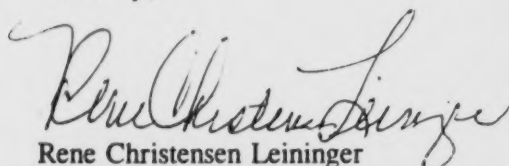
PREFACE

The Americans with Disabilities Act (ADA) was signed into law on July 26, 1990, bringing with it implications for significant systems and policy changes in business, public accommodations, and state and local governments. Because the ADA is the most sweeping civil rights legislation for people with disabilities, we have tremendous opportunities to fully integrate people with disabilities into all aspects of community life.

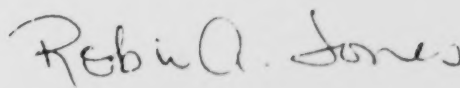
While an extensive amount of ADA training and information has been produced, information has not exclusively focused on training and information as it relates to individuals with cognitive disabilities. For this reason, we are excited to present to you this two-day training session. During this next year, we will provide training on the ADA and the facilitation of natural supports for individuals with cognitive disabilities to 150 individuals throughout Illinois.

We look forward to working with you during these training sessions. Please take advantage of the training and bring the information and skills you learn back to your community so that we can continue to see the ADA make a difference in Illinois!

Sincerely,



Rene Christensen Leininger
Director
Illinois Planning Council
on Developmental Disabilities



Robin A. Jones
Director
Great Lakes Disability and
Business Technical Assistance Center

ADDRESS FROM THE GOVERNOR



STATE OF ILLINOIS
OFFICE OF THE GOVERNOR
SPRINGFIELD 62706

JIM EDGAR
GOVERNOR

May 17, 1995

Dear Training Participants:

It is with great pleasure that I welcome you to this training session regarding the Americans with Disabilities Act and Individuals with Cognitive Disabilities. We, in Illinois, are committed to encouraging the participation of all citizens, including citizens with disabilities, in the ADA and all aspects of life.

This training session offers an opportunity to hear from some of the best thinkers in the field of disability. Cornell University has a rich history of expertise regarding people with cognitive disabilities, and the Great Lakes Disability and Business Technical Assistance Center and the Illinois Planning Council on Developmental Disabilities are two nationally recognized ADA resources right here in Illinois.

I encourage you to participate fully in these sessions and take the information and skills that you learn back to your communities and professional networks. It is through partnerships such as these that we can truly make the ADA a reality for all communities in Illinois.

Sincerely

A large, stylized handwritten signature of Jim Edgar in dark ink.
Jim Edgar
GOVERNOR

JE:kc

MODULE I

TRAINING GUIDELINES

Planning and Coordinating ADA Training: Suggested Guidelines for Implementation at the State and Local Level

Developed by the staff and faculty of Cornell
University's *Program on Employment and
Disability*

The compilation of these materials was made
possible by a grant from the Illinois Planning
Council on Developmental Disabilities in
collaboration with the Great Lakes Disability and
Business Technical Assistance Center at the
University of Illinois at Chicago (Grant No. 9411)
to Cornell University's Program on Employment
and Disability to serve as an *ADA Materials
Development and Training Project*.

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- D. Training Coordination Plan, Training Coordination Checklist, and Training Accommodations Satisfaction Survey
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- F. Examples of Training Materials Packaging
- G. Example of Effective Overheads
- H. Examples of Training Program Evaluations

INTRODUCTION AND PURPOSE

Purpose of the Guide

The Americans with Disabilities Act of 1990 (ADA) is one of the most significant pieces of civil rights legislation in history. This guide will help you implement training on appropriate aspects of the ADA in your region, to ensure that people with disabilities are afforded equal opportunities in the workplace and beyond.

This reference guide was developed for Regional Disability and Business Technical Assistance Centers and their affiliates to provide a *planning process* through which training programs can be designed and delivered in a systematic way.

Though this guide is *not* intended to be a *how-to-instruct* manual, also included are a few general-approach suggestions which will have particular relevance to the kinds of ADA instruction you will be planning and implementing.

Many of you have extensive experience in implementing training and your *own techniques* may greatly enhance the content of this guide. For others, this may serve as a help in working with organizations and individuals less familiar with training implementation.

Most of your program participants will be adults. Information specific to adult learning is provided along with adult-instruction ideas which can be generalized to all participant constituencies.

Unit Two

TRAINING NEEDS ASSESSMENT

A target constituency refers to the particular group of people for whom your training is intended. In order to provide the most effective training program, assessing the needs of the constituency is very important. There are two levels of needs assessment. The first is trying to assess information needs in general, from the community, to determine the type of training you should offer. The second is trying to determine more precise training and informational needs of an entity which has contacted you. The first type would be a more general approach, the second would be a more specific approach. We will describe the process and different methods of assessing needs with these two approaches in mind.

The type of training needs assessment will be different if a training program has *already been requested*. When this is the case, your focus will be on assessing the specific constituency's needs. We will cover the more general approach first, and the more specific approach, used when you are contacted by an entity, second.

Purpose

Effective training takes many months of work and planning to ensure that it has the highest relevancy possible to the constituency to be served. To accomplish this you need to conduct a training needs assessment which will enable you to clearly identify your target audience, their needs, and desired outcomes.

Process

By using a needs assessment, the training coordinator should be able to gather data on the following:

- *Who* needs to be trained, i.e., the target constituency
- *What* they need to know
- *How many* people need to be trained

After you have gathered the information above, you will be able to decide the following:

- *What* the program content needs to be
- *Which process* will be used: interactive training or presentation of information in print form
- *What outcome* you want to achieve: knowledge, skills, attitude, or information change

Needs assessment can be approached in a number of ways, depending on your time and resources. The following page describes some different methods.

Methods of Conducting a General Needs Assessment

The type of training needs assessment done will depend on time, resources, the constituency to be surveyed, and the nature of the questions to be asked. Following are some suggestions of different methods for conducting a needs assessment. They range from the easiest and least expensive to the more difficult and more expensive. Structured surveys will provide you with more accurate, consistent information than will informal telephone surveys, but they are also more costly and time consuming. These are all decisions you will have to weigh when deciding which approach to use.

Telephone Survey (informal). Contact local service providers in your state or at the local community level and ask what they think the needs of the target

Program on Employment and Disability

Unit Two

constituencies are, and what would be the most efficient and effective way of dealing with their information needs.

Telephone Survey (formal). Develop a series of questions about the target needs, topics and formats for training. Use these questions to survey a small sample of key representatives. By using the same questions, you get information in a consistent format and which you can reliably summarize.

Open-ended Mail Survey. Selecting a target group for a mail survey can be done by looking at your organization's experience on specific issues, or by checking upcoming legislative changes, expressed needs and concerns, etc. The target group will depend on which specific topics you want to train. After selecting a target group for a mail survey, ask open-ended questions to get a broad-based picture of the kinds of issues and topics of interest to those who will be trained.

Structured Mail Survey. Develop a questionnaire with closed-ended questions and send it to a random sample of a variety of different constituencies. This will give you specific information about their knowledge of the various components of the Americans with Disabilities Act and persons with cognitive disabilities, and where there are gaps in their information.

Several samples of this type of questionnaire, including one which was developed by the ADA projects funded by the National Institute on Disability and Rehabilitation Research are included in Appendix A 1—3.

Gathering Data from an Already- Identified Entity

When you are assessing the content needs in an already-identified entity:

Ask people who

- understand or experience the problem (or need the information)
- have the necessary expertise
- are articulate
- can and will tell the truth

Get a variety of opinions

- across lines of authority
- across skill levels
- across departments

Considerations in the Design of Training Needs

There are three aspects of training about which you can collect data in your surveys:

Types of Needs. Both training needs and technical assistance and information needs can be solicited in a needs survey.

An example of this type of survey developed by the NIDRR Project Grantees Training Committee (S. Bruyère, J. deJong, J. Eckel, R. Glazier, R. Jones, and S. Kaplan) provides this type of approach. It presents a simple, straightforward way to gather the data, and provides a clear, preliminary assessment of the types of

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information needed and the dissemination format which is preferred at this time (See Appendix A 4 - 5).

Degree of Need. How urgent the constituency's needs are can also be ascertained in your survey.

The survey created by the National Center on Disability Services for the Northeast Disability and Business Technical Assistance Center and the survey created by the Rocky Mountain DBTAC illustrate this type of needs assessment (see Appendix A 6 - 10).

Numbers of People Needing Training. The third type of information you can gather is the number of organizations or individuals needing training. This can be done by obtaining lists of the numbers of employers, advocacy organizations, service providers, insurance providers, etc.

For more accurate data, you can survey these organizations, and ask them about numbers of personnel needing ADA training, and what their position categories are.

Ensuring Data Accuracy

Timing the instruction to match the receptivity of the audience is an important consideration. If possible, training should be a part of a larger plan for community or organizational change that will maximize the likelihood of ADA implementation.

Gaining insight into the prevailing attitudes of the prospective participants towards the ADA and people with disabilities requires telephone interviewing skills which allow the person being interviewed to feel confident that he/she can speak openly and candidly.

For these reasons, a confidential, individually written survey of needs provides the most accuracy if—and only if—the responders are given adequate time to complete the survey.

IDENTIFICATION AND RECRUITMENT OF PROGRAM PARTICIPANTS

Developing Mailing Lists

There are two steps in developing your mailing lists:

- 1) identifying your target audience; and
- 2) contacting them.

Identifying Your Target Constituency. Target audiences to be served are multiple. Mailing lists for each of the following groups should be developed:

- persons with disabilities, their families, and advocacy organizations
- vocational rehabilitation agencies and rehabilitation service providers
- insurance providers
- state and local government agencies
- legal associations
- employers, employer organizations, and unions

Reaching Your Target Constituency. The following are suggested contacts to build mailing lists and to disseminate information.

Consortiums:

Local Rotary and other Service Clubs
International Management Council
County Human Resources Associations
Local Chambers of Commerce
Better Business Bureaus
Placement Consortiums
State Bar/Legal Consortiums
Unions/Workers' Associations
Manufacturers' Associations
Local Zonta Groups
Industrial Relations and Research Associations
ADA Collaboratives
City and County Legislatures and their newly appointed ADA Coordinator or
Disability/Access Committees
College and University 504/ADA Coordinators

State Representatives:

State Office of Mental Health
State Office of Mental Retardation and Developmental Disabilities
State Head Injury Foundations
Easter Seals Foundation
Epilepsy Foundation
State Agencies for the Blind
State Office of Advocate for People with Disabilities
State Office of Vocational Rehabilitation
State Department of Education
State Developmental Disabilities Planning Councils
State Restaurant Associations

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Target Constituency Organizations:

Independent Living Centers
State Associations for Rehabilitation Facilities
State Mental Health Associations
State Alliance for the Mentally Ill
State Associations of Deaf Persons
State Associations of People Who Are Visually Impaired
Disabled American Veterans
The Arc (formerly Association of Retarded Citizens)
State Chapters of the Autism Society of America
State Volunteer Hospital Associations
State listings of rehabilitation service providers in VR agencies and community rehabilitation programs
State listings of Human Resource Personnel
Women's Health Centers/Community Centers
State Chapters of Self Help for Hard of Hearing People, Inc. (SHHH)

Developing Marketing Materials

How you market your training program involves many steps and much planning to ensure an effective use of money and resources. It also reflects on your organization/agency, and is a chance to promote the resources of your organization/agency.

Following are some points to consider when deciding how to market your services and training.

- **Timing of Brochure Mailout.** The earlier the mailing reaches a constituent, the greater the attendance. The brochure should be on the person's desk *at least 4 to 6 weeks before the training program.*

Mailing brochures as early as 3 months before the course is more effective for large programs.

- **Brochure Formats.** Brochures should be designed in the style and format which will be eye-catching to the target constituency. Looking through the constituent's trade publications can provide helpful ideas. A hastily printed, cheap-looking brochure can be cost effective, but may not reach the level of person you wish to contact most. And it may leave an inaccurate impression of the resources of your organization/agency.
- **Content of Brochure.** Important items to include in the brochure are:
 - the date and location of the training
 - an agenda or course description
 - the target audience
 - names and qualifications of the course instructors
 - registration information and a registration form
 - accommodation requests, i.e., FM system, audio loops

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It is important to identify the registrants' accommodation requests as far in advance as possible so you can be sure to meet these needs.

You may also want to add to the marketing materials:

- how this training can save time, dollars, or other resources
- new issues or state-of-the-art suggestions offered in the program
- specific functional titles or staff/management levels to which this program particularly appeals
- any special program features (video, "how-to" manuals, free guides, etc.)
- special benefits to be gained by attendees (list them)
- quotes from past attendees
- detailed outline to ensure a better match of topics to individual interests
- promotional biographies of presenters to appeal to "expert" seekers
- photos or drawings

Appendix B contains two samples of brochures used in advertising ADA training programs in Federal Region II.

Production Cost Options

Several factors impact on the cost of producing a brochure. Your brochure budget, together with the amount of production time you've allocated, must be considered well in advance of your target mailing date.

Photocopying—The fastest and least expensive method of reproduction is in-house photocopying, although many office copiers are incapable of reproducing crisp, clean copies. Professional copying services can usually do a better job, but may cost as much as offset printing, depending on the number of copies needed. Photocopying limits you to certain qualities and sizes of paper stock; for instance, print on glossy paper tends to smear.

Offset printing—Professional offset printing typically requires two weeks, but results in crisper, cleaner copy. Choices of papers, inks, and sizes are practically unlimited. Single-color (black ink) printing is least expensive; an alternative color ink is slightly more expensive; two or more colors is most expensive. Quantity has little impact on your bill, since the bulk of the cost is in set-up.

Paper quality—Color, weight, and surface of paper stocks vary greatly, as do costs. Dark ink on light-colored or white paper provides the most contrast, and is easiest to read. Generally, the heavier the paper (i.e. 70 pound vs. 20 pound), the more it costs. Many lighter-weight papers may appear flimsy, and may not be conducive to two-sided printing, since ink is more easily absorbed. However, heavy papers may affect postage rates. Coated papers (glossy or matte) are the most expensive; because they do not absorb ink, type is sharper and easiest to read. Uncoated papers (non-glossy) are less expensive, and can also be used to produce a professional-looking piece. Both coated and uncoated papers are available in varying textures; generally, smoother surfaces are easier to read.

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Mailing and Postage

- **Bulk Mail**—Third-class, bulk mailing rates are much more cost-effective than first-class mailing rates. Contact your local U.S. Post Office for up-to-date specifications on:
 - specific size/dimensions of mailing allowable (folded and/or unfolded)
 - cost per piece, depending on weight
 - indicia (bulk-rate stamp)—In advance of self-mailing brochure printing, obtain bulk rate permit number to include in stamp box in upper right corner, along with other required wording/specifications.

Bulk mail requires 3-4 weeks delivery time and must be pre-sorted by ZIP Code prior to delivery to post office.

- **First-class mail**—Postage rates vary according to size/dimensions and weight. Currently a one-ounce 8 1/2" x 11" piece, folded in half or thirds, costs 32 cents, while the same piece, left unfolded, costs more. Depending on time constraints and number of brochures to be mailed, first-class postage may be more practical.

Alternatives to Brochures

Advertising the program in professional journals and newsletters can also be effective. Time invested in learning how best to reach your target constituency can save time and money. Professional journals and newsletters often have a monthly calendar of events which interest the readers. Most editors will list your event on the calendar at no charge.

AGENDA DEVELOPMENT & RECRUITMENT OF INSTRUCTORS

Developing an Agenda

Critical to the success of a training program is the quality, resourcefulness, expertise, and instruction skills and style of the instructors. Equally important is a carefully crafted agenda. On the following pages we will describe the process of agenda development, and some resources for identifying potential instructors.

Once you've identified appropriate topics and instructors, you can begin to develop your full program agenda by allocating sufficient time for each topic, as well as for breaks (see sample in Appendix F 2—3).

These are some steps to consider when developing your agenda:

- Identify the general themes and topics.
- Arrange the themes and topics in a logical sequence.
- Create an agenda. Illustrating it in a flowchart format is sometimes helpful to identify all the various components which should be covered, and to ensure a logical progression of topics.
- Outline the modules and titles and define each of the components.

When module components have been titled and defined, the individuals responsible for identifying and selecting instructors have a more complete picture of which areas of expertise will be needed to effectively facilitate that specific module.

For example, through training needs assessment information gathered by a Regional Center, a need for continuing education on the employment provisions of the ADA has been identified. The Regional Center decides to develop and implement a training course entitled *The Employment Provisions of the ADA*.

The following diagram outlines the steps described above which should occur prior to identifying and selecting consultant instructors for the course:

Course Title: The Employment Provisions of the Americans with Disabilities Act (ADA)

Module 1 Title: An Overview of the ADA

- Breakdown:**
- Existing state and federal laws relating to the rights of people with disabilities
 - Interface of the ADA with above-described laws
 - Basic summary of the ADA

Module 2 Title: Components of the ADA: Pre-employment

- Breakdown:**
- Pre-employment restrictions in advertising the job and pre-screening
 - Permissible limits of medical and drug testing in the pre-employment selection process
 - Reasonable accommodation in the application and screening process

Please note that this is not a complete course description, but does demonstrate how to break down and define modules.

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Choosing Instructors

When selecting an instructor for Module I, an individual with expertise in the areas of federal and state legislation will need to be identified, whereas Module II requires an instructor with expertise in the pre-employment provisions of the ADA.

In keeping with the natural flow of the modules, the next module might be entitled: *"Components of the ADA: Confidentiality and Personnel Issues,"* which would require an instructor with expertise in that specific area of the ADA.

- If not providing the instruction yourself, great care should be taken in identifying instructors. Matching instructors with content will be one of your more difficult tasks. An excellent or an ineffective instructor can make or break your training program, and can affect how the information you want to provide is received. Attending a presentation by a potential instructor is very beneficial. Another method is word of mouth. Some resources for potential instructors are listed below:
- It will often serve as good networking and provide participant appeal if you include guest instructors who have "instant credibility" or represent a valued/needed ally.
- When your in-house staff will be the sole instructors, these suggestions on instructor selection do not apply, but rather serve as a guide.

Resources for Possible Instructors

When selecting instructors a variety of resources can be tapped. Community organizations, as well as state and national organizations, maintain directories of local guest lecturers and instructors, and can be contacted for ideas. Some examples of resources:

- Local Chambers of Commerce
- Local Human Resources/Personnel Associations
- Local Placement Consortia
- Local Job Service Agencies
- Local Department of Labor
- District Offices of Vocational Rehabilitation
- Economic Development Councils
- County Private Industry Councils (PIC)
- Local Chapters of the International Management Council
- Law Firms and Legal Consortia
- Local Vocational Rehabilitation Facilities / Agencies
- State Protection and Advocacy Systems
- District Offices of the State Agency for the Blind
- National Human Resources Society
- State Office of Vocational Rehabilitation
- Rehabilitation Services Administration
- American Psychological Association (APA)
- Association for Persons in Supported Employment (APSE)
- National Speakers Bureau
- Regional Rehabilitation Continuing Education Programs, (e.g., RRCEP-SUNY Buffalo)
- Regional Rehabilitation Facilities Training Programs (e.g., Seattle University Rehabilitation Continuing Education Program)

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- State Bar Association
- Educational institutions / University-affiliated programs
- Governor's Task Force on People with Disabilities
- State Office of Advocate for People with Disabilities
- President's Committee on Employment of People with Disabilities
- Independent Living Centers
- Local labor unions
- State chapters of national organizations targeted to persons with specific disabilities
- Regional and state office of the U.S. Department of Justice or the Equal Employment Opportunity Commission
- State Human Rights Offices

CALCULATING TRAINING COSTS

Purpose

Estimating your training budget can help you decide how much to charge for a registration fee, and provide insight on areas with which you can afford to be generous, or areas where you need to cut back.

Process

A form to assist with these calculations is provided in Appendix C. The form will help you itemize training costs in the following categories: advertising; meeting room/conference costs; instructor fees and expenses; training materials; accommodations; and staff time and travel.

Note: If the training is being co-sponsored with another organization, an arrangement for cost sharing/fee sharing could be made. In that case, when figuring the costs, or the registration fee you need to charge to cover the costs (break-even), calculate the proportional share of profits to be returned to co-sponsor before assuming the final break-even point.

Use the following breakdown to estimate staff time required for planning a program of any size:

Training Program Coordinator:

1. Needs assessment (requested training) 1-5 days
2. Needs assessment (to establish needs) 1-10 days
3. Identification of training needs (topics, content, agenda, etc.) 2 days
4. Locating/confirming instructors and follow-up correspondence 4 days
5. Costing out of training ½ day
6. Time at training (depends on course length) 1-3 days
7. Travel to training and set-up at site 1 day
8. Follow-up correspondence (evaluation, thank you, etc.) 1 day

Facilities and Accommodations Coordinator:

1. Secure training site, arrangements and accessibility/local information regarding site 1 ½ days
2. Other accommodations (i.e., braille materials, interpreter, lift-equipped transportation, etc.) ½ day
3. Participant confirmations/arrangements 2 days
4. Instructor correspondence/arrangements (if needed) ½ day
5. Hotel/meeting room arrangements/confirmations/reasonable accommodations/breaks, meals/final logistics check 1 ½ days
6. Follow-up letters and payment of expenses 1 day

Materials Specialist/Secretary:

1. Designing brochure and preparation for printing 1 day
2. Ordering materials (if necessary) ¼ day
3. Word processing time for materials presentation (varies greatly) 5-10 days
4. Special accommodation print materials preparation (if necessary) 1 day
5. Assembling materials into binders/folders; preparing tabs/inserts 1 day
6. Packaging and shipping training materials to training site ¼ day

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Unit Six

PROGRAM AND SITE COORDINATION

Purpose

There are many facets to coordinating programs. Having a comfortable, appropriate, and barrier-free environment contributes to the overall success of any program. The following pages provide more detailed information regarding the main areas of coordinating programs.

Plan and Checklist

A checklist helps provide timelines for activities involved in coordinating a program. A Training Coordination Plan and Checklist, developed by the Staff of the ILR Program on Employment and Disability, are included in Appendix D (1-4).

Location

If participants will be traveling from a distance, a site close to the airport or a central location will be appreciated. Accessibility to public transportation is very important.

Accessibility Survey

The facility chosen needs to be accessible. It is best to have someone knowledgeable about all accessibility guidelines *visit* the site and *survey all areas* rather than relying on the word of the hotel sales office. A local independent living center may have such a person who may already have done a site visit and be able to provide that information quickly. The accessibility survey should include questions regarding:

- accessible transportation available to the training site
- parking
- entrance to building
- conference/meeting room
- lodging
- restroom
- other common-use areas
- amplified pay phones
- pay phone TDD
- path of travel through the facility
- dining areas

Resource Guides

A good resource reference is Appendix B of the *Americans with Disabilities Act Handbook*, published by the Equal Employment Opportunity Commission and the U.S. Department of Justice, which contains the ADA Accessibility Guidelines, and Appendix C, which contains the Uniform Federal Accessibility Standards. Copies of this publication can be requested from your regional Disability and Business Technical Assistance Center (DBTAC). To receive a copy, contact your Regional Center at:

Great Lakes DBTAC (Region V - IL, IN, MI, MN, OH, WI)
University of Illinois at Chicago
Institute on Disability and Human Development
1640 West Roosevelt Road (M/C628)
Chicago, IL 60608
(800)949-4232 (V/TTY) or (312)413-1407 (V/TTY)

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Facility Coordinator Responsibilities

Another reference is the *Guide to Accessible Meetings* by June Kailes and Daryl Jones, which provides guidance and resources for all aspects to ensure programs/meetings enable people with disabilities full benefit from the total experience. This publication includes how-to's on environment, lodging, communication issues, etc.

If the training facility meets accessibility requirements, be sure to make frequent needed contact with the Banquet Manager or the Conference Coordinator. To make the best use of the planner's time, all coordination for the program should be done exclusively through one or both of these people. They should be able to take care of all arrangements. In the case of a facility which may not be fully accessible, provide concrete explanations and examples of actions the hotel/conference center can take to be in compliance with the ADA.

Lodging Accommodations

The program may necessitate overnight lodging for some participants and instructors. Most hotels will reserve a block of sleeping rooms for the group, sometimes at a cheaper rate per night, depending on the number of rooms. Remember:

- most hotels only have a few such rooms.
- when the block of sleeping rooms is reserved, be sure to indicate that all wheelchair-accessible rooms be included in the block.
- ask participants what their preferences are.

Accessibility in the sleeping rooms includes:

- wheelchair accessibility
- visual alarms (smoke/fire detector, door knock light, telephone light, etc.)
- telecommunications devices for the deaf (TDDs)
- decoders for the televisions; amplified handset for guest room
- any written/printed material and signage in braille, and audible cues for a telephone message signal, to accommodate persons with visual impairments
- accommodating a person who uses a guide dog or another service animal, if necessary

Safety

To ensure the safety of a participant with a visual impairment, an on-site walk-through to check for any protruding objects or obstacles in the path of travel should be done before anyone arrives. These hazards might include a hanging planter or a water fountain that sticks out from the wall.

Inform participants of the location of emergency exits. Be aware and notify all of the methods that the hotel has in place for notifying guests of emergencies (e.g., TDDs, audible alarms, flashing lights).

Advance Reservations and Accommodation Requests

The participants can be asked to call in their own reservations to the hotel. Or if they are asked to fill in reservation information on the registration form, this information can be provided to the hotel in the form of a rooming list, clearly indicating any accommodations that may have been requested.

Very important note: If the participants call in their own reservations, with their "reasonable accommodation" requests, the hotel is responsible for meeting those

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Unit Six

Confirmation Letters

needs. If the sponsoring agency provides a rooming list, the sponsoring agency is responsible for the accommodations because the lodging would then become part of the training program's budget.

A letter to participants confirming their registration, with specific course information such as training location, dates, and time, including lodging arrangements, should be sent out approximately two weeks prior to the course date. An example of a participant confirmation letter is included in Appendix E 1.

Post-Program Accommodation Survey

After the program has been completed, a Training Accommodation Satisfaction Survey (see Appendix D 5) should be presented to participants. This survey will assess the facility, sleeping accommodations, and any catered function. This will help in determining whether to use that facility again, and whether there was anything that could have been done differently to better accommodate everyone.

Refreshment Breaks

Depending on the budget, coffee (regular and decaf) and tea and some kind of pastry, danish, muffin, or bagel can be made available for the participants when they arrive (by 8:45 a.m.), with a refill of beverages around 10:30 a.m., or whenever it fits in with the agenda.

An afternoon refreshment break, which could consist of a variety of juices (apple, cranberry, etc.) and soda (half diet) and assorted fresh fruits, could be made available around 2:30 p.m.

Lunch: Again, depending on the budget, lunch can be provided for participants, or participants can dine on their own between 12:00 noon to 1:15 p.m., with flexibility on the agenda. If participants are responsible for their own lunches, be sure they have been adequately notified and be sure accessible meal locations are clearly identified.

Convey to the Banquet Manager or Conference Coordinator information regarding the set-up of the refreshment tables. Remind them that some of the participants may have limited mobility and that the refreshment tables should be set up so that all items on the tables are easily accessible to everyone. Persons with visual impairments will need brief orientation to refreshment service.

Handling Dietary Preferences: Dietary preference/restrictions can be inquired about on the registration form, along with accommodation requests.

Media (Audio/Visual Equipment)

The hotel will generally be able to provide the audio/visual equipment for rent or be able to recommend an outside vendor. The most commonly used pieces of audio/visual equipment by instructors are: an overhead projector and a screen; a flip chart with a stand and markers; VCR playback equipment with a monitor; a blackboard with chalk and an eraser; and a microphone. Be sure to ask each instructor which equipment they wish to have available during their presentation. This cost should appear on the "Calculating Training Program Costs" form (Appendix C).

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Unit Six

Accessible Transportation

Match requested assistive listening system (ALS) needs to what is available/needed at the site. If a sign language interpreter is needed, lighting may need to be adapted. Be sure to test all ALSs two times before the program begins (have back-up batteries on hand).

If participants have requested accessible transportation, be certain arrangements are made with the program site. If a community site is used, check with the local independent living centers. They may offer lift-equipped van service themselves; if not, they should be able to refer you to a vendor that does. Be certain both you and the participant know who is responsible for making transportation arrangements at all times.

Negotiating Fees and Contracts

When securing a program site, it is important to survey where the best services can be purchased for the most economical costs. When working with hotels, stress the extent of business that can be brought to the establishment during the course of a year and the potential for new business which exposure to program constituents may provide in the future.

Often hotels well versed in accommodating trainings will offer "perks" for increased business. Listed below are some points on which most hotels will negotiate:

- upgrade of hotel rooms for overnight guests
- reduced corporate/state rate for overnight guests
- free sleeping room(s) for instructors if a certain quota of sleeping rooms is met by training participants
- discounted or free meeting room rental with a certain quota of sleeping rooms or purchase of food services
- discounted or free rental for audio/visual equipment needs

Seasonal Opportunities

The time of year the training is to be held may also allow another opportunity for negotiations. Hotels experience slow seasons when they may discount rates on meeting rooms, sleeping rooms, and catering, in order to attract business.

The extent of areas open for negotiation is dependent on the negotiation skills of the program representative. The more training directed toward an establishment during the course of a year, the more negotiable the hotel costs will be.

PACKAGING OF INSTRUCTIONAL MATERIALS

Purpose

Meeting submission deadlines for instructional materials, the legibility of material, and the availability of needed resources or publications are critical to conducting a successful program. While this Trainer's Guide comes with a complete curriculum on ADA and Implications for Persons with Cognitive Disabilities, the instructor may choose to custom-design a training program to meet individual training needs of targeted constituents.

Time Concerns

One of the most important elements in the packaging of the training materials is having adequate advance preparation time. When communicating with the instructors be sure to state a deadline for submittal of their instructional materials (see example of instructor letter, Appendix E 2). The experience of the instructor and the condition of his/her training materials will be the deciding factor for the time required to prepare materials for final copy.

Legibility

Is the original clear and readable or will it have to be retyped? Are the materials pleasing to the eye? Is the instructor requesting overheads? Depending on the answers to these questions and the time still available, decisions can be made as to the next step to take with the materials.

Other Instructional Aids

Some instructors may request that resource publications be obtained for distribution for their presentation. The time frame for these resources may take six weeks or more (refer to Training Coordination Plan and Checklist, Appendix D 1—4).

Manual/Package Format

The instructional manual or participant packet should include a cover page, an agenda, autobiographical sketches of instructors, and a contact information page. The body of the manual can include divider pages and tabs for easy reference when you have a great deal of materials (25 pages or more).

- **Cover Page** should include program title, date, location, grant reference, sponsorship, etc.
- **Agenda**—time-sequenced outline of content to be covered.
- **Funding Source/Sponsor and Curriculum Developer Acknowledgements**—the text of the manual should include headers to reference the author of the material and footers to reference your organization, or a sponsor and the instructors.
- **Autobiographical Sketches**—should give brief descriptions of the coordinator(s) and instructor(s), their experience, and their qualifications.
- **Contact Information**—should contain the mailing address and phone numbers for the coordinator(s) and each of the presenters.

A sample of these training manual introductory pages are provided in Appendix F.

Packaging of Manual

The amount of material will influence how you package it. If the manual contains 75-100 pages or more, consider using a three-ring binder. If the manual contains less than 75 pages, consider using a pocket folder or spiral binding. The packaging you choose may also depend on the cost for this item allowed in your budget.

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Unit Seven

Boxing and Shipping

These manuals/packets also offer an opportunity to advertise any upcoming training dates that are scheduled. Brochures or listings of dates can be inserted in a pocket of the three-ring binder or the folder. The brochures or listings might also be sent to the training location and left on the registration table for participants to pick up on their way in to the training.

Boxing—It is always a good idea to have a checklist to reference when boxing the materials for shipment (see Appendix F-7). This checklist should include:

- training manuals
- sign-in sheet
- continuing education units request form
- training evaluations
- certificates of completion
- any handouts that were ordered
- transparencies
- markers, overhead pens, etc.

Shipping—Time and costs are both important factors when the materials are ready to be shipped to their destination. The shipping option you choose will depend in part on timely receipt of materials from instructors, required preparation and printing time for materials, timely receipt of resource publications, and timely assembly of manuals or packets.

There are several shipping services available that offer a variety of options:

- ground service, which may take five days
- two-day service
- next-day service

Depending on the weight of the package, it might be quite costly to ship two-day or next-day, but these services would guarantee delivery on time.

Alternative Formats

Requests for the training materials in braille or large print, or on audio tape, will require more preparation time. You should know the required production time for each and ask that requests be made accordingly. Instructors must submit their materials with this in mind.

Other Handouts

Useful information can be obtained from federal, state, or other organizations as a supplement to the program materials. These should be ordered at least six weeks prior to the training date to allow adequate delivery time.

PROGRAM EVALUATION

Purpose

Evaluation is the process by which you measure the results of a program to discover if it in fact accomplished what was intended.

Evaluation answers the question: Did it work?

When to Evaluate

Immediately. Evaluation usually takes place at the end of the program, before the participants leave the training site. This evaluation records the feeling the participants have toward the training, but does not indicate whether they will use any of what they have learned.

Training evaluation can provide an index of participant satisfaction, as well as assist in the assessment of the effectiveness of the instructional format, handouts, audio-visual materials, and individual instructor presentations.

Evaluation Format

The matrix in Appendix H 1 provides a guideline for you to make decisions about how to conduct your evaluation. Two sample evaluation questionnaires are also included in Appendix H 2—8.

It is important to take the necessary time up front to prepare a useful evaluation, one that asks the questions in a way that produces the depth of feedback desired, and in a clear, concise form. A one-page evaluation is usually best, to engage the participants' remaining energy at the end of a training program.

Evaluation Content

Asking questions about specific aspects of the training experience will help you evaluate the overall effectiveness of the program.

You might want to know if the *program* is:

- the right length
- the right complexity of subject matter

Questions about the *objectives* might include:

- Do they address what is needed on the job?
- Are they clear?
- Do they reflect what in fact is in the program?

Questions about the *materials* might relate to:

- level of difficulty
- readability

Questions about the *instructors* might relate to:

- presentation skills
- content knowledge
- rapport with the group
- flexibility
- innovativeness

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Unit Eight

Cost of Evaluation

Using the Evaluation Data

Questions about the *facilities* might relate to:

- comfort (ventilation, furniture, sleeping rooms, recreation)
- location
- parking
- courtesy and responsiveness of staff
- accessibility
- quality of food

Questions about the *content* might relate to:

- applicability and appropriateness
- accuracy
- sequence

The program might also be evaluated for its *cost effectiveness* relative to the outcomes.

Training evaluation costs can include:

- the cost for reproduction of the assessment instrument
- scoring of the instrument
- analysis of results

Data from the evaluation can be used for multiple purposes and are restricted only by your needs. Data are immediately most useful to the training coordinator and instructors.

Feedback to Training Coordinator—The training coordinator learns:

- the effectiveness of the instructors from the perspective of the individuals who attended
- overall participant satisfaction
- the strengths and weaknesses of the program
- its viability for future offerings
- effectiveness of films, handouts, and individual instructors

Feedback to Instructors—Instructors learn:

- how the participants rate the overall program effectiveness
- how their performance was
- how to improve upon future presentations

(Note: A sample thank-you and feedback letter to an instructor is included in Appendix E 3.)

Feedback to Regional Center—Regional Centers can use this feedback to:

- assist in annual planning
- see which programs have been the best received
- assess which instructors should be used in the following years for repeated program offerings
- confirm the effectiveness of the trainer's implementation of the training
- point to areas of needed instruction for future priorities in following years

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Feedback to Training Sponsors—Training Sponsors can use this feedback to:

- assist in annual planning
- see which programs have been the best received
- assess which instructors should be used in the following years for repeated program offerings
- confirm the effectiveness of the trainer's implementation of training
- point to areas of needed instruction for future priorities in following years

Feedback to the Program Requester—The entity you did the training for can use this feedback to:

- serve as good public relations for you
- provide solid in-house compliance effort documentation

The evaluation can serve as an additional attraction in instruction proposals and the participants could be asked what additional areas they would like to see included in future trainings.

Program on Employment and Disability

Unit Nine

TRAINING DELIVERY

Improving Training Skills

The ultimate success of any training program depends on the effectiveness of the trainer. This manual has been designed to help you enhance your own training skills, as well as to help you teach others to become more effective trainers.

The following pages outline important aspects of training delivery, including: the role of the trainer; special considerations for adult learning; general training tips; and guidelines to follow when participants and/or presenters have special needs. A glossary of terms is also included.

Becoming knowledgeable about these considerations will ensure effective communication and promote attainment of the program's learning objectives.

Trainers should highlight this information for the participants during the introductory portion of a training program and incorporate the strategies into the program design.

Role of the Trainer

Teaching is an activity that has taken place in doorways and on street corners, in academies and under hallowed marble columns at universities—from Socrates to modern-day teachers, media commentators, independent consultants, and those who teach by doing. Now you have the opportunity to assume the role of trainer—to teach employers, employees, people with disabilities, and a variety of other populations about the Americans with Disabilities Act as it relates to individuals with cognitive disabilities.

Trainer Responsibility

Training is both an opportunity and a responsibility. It is an opportunity for you to grow and to learn. You will also gain a valuable skill that will help you in your work and self-esteem through expanding others' knowledge of important laws regarding how we treat others. There is also a responsibility to your learners to create the kind of climate in which they will feel comfortable and enabled to learn.

The charge to the trainer is to demonstrate to others that you know they are not there to hear you pontificate or soak up your words of wisdom, but to internalize and be responsible for applying the information in their lives, whether in work or in interacting with others.

It is a duty not so much to train as to help people learn—to inspire them to learn that which will help them and be of help to others.

Characteristics of Effective Trainers

In general, the following skills and knowledge are critical for a trainer/leader to be effective.

An effective trainer:

- Speaks clearly and uses understandable terminology
- Has mastery of the subject matter
- Pulls upon personal experience in the topical area
- Has enthusiasm for the topic
- Knows how to operate AV equipment

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Adult Learning

- Uses visuals in a timely manner and without causing distraction
- Is prepared to accommodate training techniques to the needs of participants with disabilities
- Can handle a variety of training methods (e.g., discussion, question-and-answer sessions, role plays)

As complex human beings, we bring to the learning situation a combined set of emotional, physical, mental, and social characteristics that make each one of us unique. The way to approach this diversity in learners and to accommodate diverse learning styles is with a variety in instruction. To do that, it is helpful to first understand some of the following learning characteristics of adults.

Adults:

- usually learn best when given a sense of control over their learning;
- usually seek to learn what can be applied immediately and what is relevant to their particular needs;
- learn best through examples/case studies and are generally problem-oriented rather than subject-oriented;
- appreciate instructor flexibility to allow for individual learning styles, levels of fatigue (time breaks to group and individual needs), creature comforts, real-life distractions, etc.;
- want to learn and learn effectively when they have a strong inner motivation, i.e., best learn information which they are shown how to apply in their own functional environment (practical application);
- bring an abundance and variety of experiences to a learning situation;
- are affected by their past experiences (either positively or negatively).

These assumptions are but a few of those dominating the field of adult learning and they are important to keep in mind not only when facilitating adult training, but also when attempting to secure the cooperation of adults in any interaction. There are many resources on the theory of adult learning from which you may obtain a more comprehensive knowledge.

Definitions

Effective instruction requires a common language. The following are listed to provide definitions of three often misused or forgotten terms critical to trainers.

Instruction: The deliberate facilitation of learning (anything intentionally done to make a person learn).

Learning: A change in performance, behavior, or attitude.

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General Training Tips

Accurate information and solid instruction are critical to successful implementation of the ADA.

An ADA-appropriate mandate for providers of information and instruction is:

- Give people the information they need
- When they need it
- In a form (format) they can use

Both presentation and training are most effective when they are systematically planned in advance. Using a step-by-step planning process enables the trainer to focus on the content, secure in the knowledge that issues external to instruction have been anticipated and dealt with to the fullest extent possible.

Content Preparation consists of:

- preparation on accurate facts on the ADA
- learning about the backgrounds of the participants, as is possible
- arranging the facts to focus on the impact they will have on the participants (e.g., how to resolve conflicts between the ADA and collective bargaining)
- preparation on accurate facts about individuals with disabilities
- providing up-to-date facts and emerging issues
- providing material in formats which are clear, concise, readable and understandable, (i.e., alternative formats, as needed; use of common language, not jargon; giving handouts to use as a continuous reference)

Balancing Learner Participation to Achieve Desired Outcomes

Astute trainers have found the following techniques helpful in getting participants more actively involved in the topic/issue and, conversely, in preventing an issue or person from consuming too much time in the agenda.

To expand participation—when you need to get the participants involved in learning and to bring in additional information and opinions:

- **Tell a relevant story about yourself.** It breaks the ice.
- **Ask open-ended questions.** That is, ask questions that call for an expansive response, not just "yes" or "no."
- **Use polling.** Ask for a show of hands about something. "How many of you have ever run into a problem like that?" Raise your own hand as you ask the question; it encourages others to raise theirs.
- **Play devil's advocate.** Express an opinion contrary to the prevailing view. Somebody is bound to agree or disagree.
- **Piggyback** on a participant's comment by asking others in the group for their reactions to the comment.

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Using Effective Overheads

To close down participation—when you need to move to the next topic, or wrap up a program:

- Ask closed-ended questions.
- Summarize where you are in the program and make an immediate link to where you are going.
- Move to an individual activity such as reading or writing.

Overheads can enhance instruction if used judiciously. Example in Appendix G.

- **Format**—Follow the “6 x 6” rule: no more than 6 lines of type per page and no more than 6 words on a line. However, keep in mind that at some time if you are completing a list of items or referencing an entire page of a manual, more lines may help you get the point across in a concise manner (e.g., decrease time associated with flipping of transparencies).
- **Font Size**—
 - 36 or 24 points for titles
 - 24 or 18 points for body text
 - Serif font is good for readability
 - Sans serif font is good for display and strong visuals
 - Use font consistently throughout
 - Careful use of italics, bold and shadow within a font can provide style and readability
- **Title**—Title each overhead and place title in same position on every overhead in a set.
- **Amount**—Overheads are best used to make *major* points only, not comprise the entire instruction.
- **Graphics**—Participants will remember graphics better than text.
- **Placement of Projector**—Use an overhead projector only if the participant farthest away from the screen is *less* than 100 feet away.
- **Keeping Track**—Number the overheads in each set and log them on a reference sheet by number and name or topic so you can easily find them.

Overheads to accompany the curriculum entitled “*The ADA and Implications for Persons with Cognitive Disabilities*” are provided in Module III of this manual entitled *Trainer’s Notes*.

Communication Effectively Using Interpreters

The presence of an interpreter does not guarantee clear communication. As a user of interpreter services, there are some things you can do to make the interpreter situation more comfortable. These hints will help you inadvertently avoid engaging in behaviors that block communication through an interpreter.

- Before the conference, meet your interpreters and provide them with any materials, including outline, notes, overhead transparency copies, and vocabulary lists. Review the presentation at this time; the interpreters can become accustomed to your signing or speaking styles. If you are able to use both signs

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and speech, it is usually better to select one consistent way to communicate for your presentation.

- If the program is longer than 1½ hours, two interpreters will be needed to work on a rotating basis. Since interpreting is very hard work and deaf people need “eye breaks” (staring at one person for hours on end is fatiguing!), scheduling breaks for every other hour also helps.
- Good lighting is necessary for the deaf person to see the interpreter. Make sure lighting is adequate before the conference begins.
- Have communication tools handy (paper and pen, diagrams, graphics—near the interpreter).
- Introduce the interpreters to the audience so the audience will be aware who will be interpreting for them.
- The interpreter should be located next to the speaker, so the audience can see both people. If in a group discussion, the interpreter should be opposite the deaf person and should be in a position to indicate who is speaking.
- Keep eye contact with the audience, but do make some contact with the interpreters to check how things are going. Address the deaf person directly. (E.g., “How do you feel?” *not* “Ask him how he feels.”)
- Ensure that the audience can see the interpreter at all times. While giving your presentation, avoid walking in front of the interpreter. Also, avoid visual distractions, such as attempting to lecture while passing out handouts.
- Speak clearly in normal tones and at a normal pace.
- Interpreters are often a few words behind the speaker and the speaker should pause often to allow the interpreter to catch up. Allow time for the interpreter to finish signing your message and/or voicing the deaf person’s message to ask questions.
- Check to be sure the deaf person understands.
- Only one person should speak at a time; it is difficult for interpreters to keep up with many voices during group discussions.
- When questions are being asked or comments are being made, have the speaker raise his or her hand and point to that person, in order for the interpreter and the audience to be aware of who is speaking.
- Ask that person who is asking a question or making a comment to identify himself or herself first.
- As a courtesy at the end of the program, thank the interpreters for their help.

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**Communicating
Effectively with
Special
Populations**

Deaf Persons' Rights

A deaf person has the right to:

- replace an interpreter who does not understand her or him or that she or he does not understand;
- request a specific individual to interpret, if preferred;
- choose the best and most-preferred communication method.

-- from *Gaulludet University*

In addition to the more general guidelines under "Communicating Effectively Using Interpreters," trainers and presenters should be aware of additional guidelines to reach special populations.

When Participants are Deaf-Blind:

- Make advance preparations for determining the kind of communication that is most effective for the individuals participating in the workshop. Determine if adaptive equipment is required, will be provided by the participant, or if it is necessary to make arrangements for a tactile sign interpreter.
- Learn the correct way to operate the adaptive equipment being used, such as an assistive listening device. An effective strategy is to ask the workshop participant for guidance.
- Arrange the seating so there is room for a tactile interpreter to sit comfortably with a participant who is deaf-blind, and be in clear view of the presenter.
- Speak slowly and clearly, although not in a stilted manner, to allow a tactile sign interpreter enough time to convey information. Pause for a brief period of time if the interpreter signals that this is needed to "catch up."
- Pay attention for signals that a participant who is deaf-blind wishes to communicate.
- Allow time for a short pause in the presentation every quarter-hour to enable tactile sign interpreters to switch with an alternate interpreter. Tactile signing is fatiguing; therefore, more than one interpreter is needed for long presentations.

When Participants Are Blind or Visually Impaired:

- Be specific about the meaning of terms, such as "over there," which are difficult to grasp without visual references.
- Describe the visual surroundings in the workshop environment. Be clear about providing a point of orientation for the workshop room, e.g., the door or the podium, and describe items by their function, e.g., the small-group discussion area.

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- Accompany communication expressed using body gestures with verbal communication, e.g., if you gesture "yes," also say the word "yes."
- Feel comfortable using words related to vision or blindness in conversations or presentations. People who are blind or visually impaired realize that others see, and use these verbal references themselves when they speak.
- Offer to guide a person who is blind or visually impaired to tactually explore items related to the presentation. Respect the individual's wish about how to carry out tactile exploration.
- Provide full, clear verbal descriptions of visual instructional materials, e.g., slides, overheads, or videos.
 - Verbally express the exact content of information that is written on a chalkboard or flip chart as it is written.
 - Verbally describe graphics that are used to illustrate a presentation, as the visual material is displayed.
 - Read aloud the text of notes displayed on overheads, slides, and videos.
- Indicate verbally when one section of a presentation or workshop ends and a new section begins, e.g., "Now we will move on to the second topic..."
- Ask group participants to quickly give their name as they address the group until it is clear that participants who are blind or visually impaired recognize the others in the group, e.g., "This is Sally. I'd like to add this to the discussion..."
- Provide periodic verbal summary overviews of print information that is displayed for the audience to use throughout a presentation.

Communicating Effectively as a Blind or Visually Impaired Presenter

Presenters who are blind or visually impaired also have special needs. The following guidelines will help enable these presenters to communicate effectively with audiences.

- Become familiar with the seating arrangement and the placement of the podium in the room where the workshop will take place.
- Pay careful attention to group introductions to become familiar with the names of group members and the way in which people are seated.
- Determine with the group at the outset of the workshop the most comfortable way to recognize participants' requests to address the group. Some presenters designate their recorder for this function; others build in time for comments at regular intervals.
- Ask participants to identify themselves by name when they address the group.
- Pay attention for and interpret audience feedback, e.g., shuffling, whispering, or silence, which may indicate time for a break or a change of pace.

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- Actively build in opportunities for participants to interact with you during a presentation or workshop.
- Prepare a list of the visual materials that will be used during the presentation or workshop. This list should follow the order of the workshop's agenda.
- Number and label the visual materials with both a visual and tactual label to correspond with the master list.
- Prepare a system for communicating with the individual who will be operating the visual display equipment, e.g., the slide projector, or the overhead projector, in advance of the presentation or workshop.
- Articulate the title and topic of each "visual" you are describing or referring to. This is a quick check for inadvertent loss of sequencing.

When Using Braille Notes:

- Prepare notes on large index cards (5" x 8") that are numbered sequentially on the upper corners of the card.
- Group note cards by topic or section. Some presenters find it helpful to use ring-type fasteners to hold cards together by grouping.
- Place braille notes at the lectern or podium in a systematic manner in advance of the presentation, so that they can be located easily and quickly when needed.
- Prepare a braille agenda or presentation overview that is handy for ready reference throughout a presentation or workshop.
- Keep a slate, stylus, and index cards to jot down ideas that come to mind or to note comments from participants.
- Designate a sighted aide to record written notes on a flip chart for use by the audience. Prepare in advance of the presentation the manner in which you will communicate your requests for note taking during the workshop.

Basic Terms and Concepts Related to Blindness and Visual Impairments

Visual acuity

The ability of the eye to resolve detail or form an image in high-contrast detail. Poor visual acuity results in blurred and/or distorted vision.

Visual field

The area or extent of physical space visible to the eye.

Total blindness

The absence of sight. Contrary to popular belief individuals who are totally blind do not necessarily live in a world of "blackness;" some perceive only a field of "whiteness."

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Legal blindness

A term used to establish eligibility for government or other benefits. An individual who is legally blind has a visual acuity of 20/200 in the better eye with the best correction or a visual field of no more than 20 degrees.

Severe visual impairment

A loss of sight that results in the inability to read ordinary newsprint even with correction.

Low vision

A clinical diagnostic term used to describe an impaired visual condition that cannot be improved by conventional glasses, medications, or surgery.

Deaf-blindness

Deaf-blindness is a combination of visual and hearing impairments that is a unique condition distinct from either blindness or deafness. Individuals who are deaf-blind may experience a range of combined visual and auditory impairments, for example, total blindness and total deafness, low vision and total deafness, etc. Individuals who are deaf-blind can communicate with others using a wide range of techniques that include:

- tactile visible American Sign Language
- tactile visible English Sign Language
- finger spelling
- printing on palm
- communication cards
- alphabet boards

Braille

A system of using raised dots that allow people who are blind or severely visually impaired to read tactually by using their fingers. Braille symbols are created using a matrix of six dots arranged in two columns of three dots. Letters of the alphabet, words, numbers, etc. are depicted using distinct combinations of the six dots in the braille cell.

Sighted guide technique

A travel technique used by persons who are blind or visually impaired in which a person with sight functions as a guide. The technique follows a specific form and has specific applications. When using sighted guide technique, a person who is blind or visually impaired firmly grasps the guide's arm just above the elbow and walks one step behind the guide.

Long canes

The long cane is a mobility device used by persons who are blind or visually impaired to probe the environment. The cane's extension and side-to-side movement provide a blind person with protection and information for travel.

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Dog guides

Dog guides are carefully trained service animals used as travel tools by persons who are blind or severely visually impaired. Dog guides and their masters undergo vigorous training to work safely and effectively as a team. Persons who are blind are responsible for the health and well-being of the dog guides at all times. Dog guides are working mobility tools. They should not be distracted, fed, or played with while they are on duty.

CONCLUSION

The training programs you develop and implement in your local and regional areas will each have unique qualities and varied outcomes.

Participant responses to training and presentations are as varied as are the individuals with whom you will interact. You will infuse into each new program the lessons learned from previous programs.

This guide was designed to lessen the likelihood of omitting important steps by providing you with a process for systematically planning and implementing presentations and training programs.

Feel free to tailor the steps to fit your needs and those of your region.

APPENDIX A

SAMPLE TRAINING NEEDS ASSESSMENT INSTRUMENTS

NAME (optional): _____ DATE: _____
ORGANIZATION NAME: _____
PROGRAM TITLE: _____

TRAINING NEEDS ASSESSMENT

ATTENDEES / PARTICIPANT ORGANIZATIONS

(Please choose the one that is most appropriate)

- ☐ 1. Business Organization and Establishment
- ☐ 2. Labor Organization
- ☐ 3. Disability Advocacy Organization
- ☐ 4. Voluntary Organization
- ☐ 5. Educational Institution
- ☐ 6. State and/or Local Government Agency
- ☐ 7. Service Provider Organization-(Non profit and private sector rehabilitation service provider)
- ☐ 8. Insurance Agency
- ☐ 9. Workers' Compensation Organization
- ☐ 10. Other (Describe) _____

ATTENDEES / PARTICIPANT JOB TITLES

(Please choose the one most appropriate)

- ☐ 1. Human Resource Professional
- ☐ 2. Personnel Director
- ☐ 3. Benefits Officer
- ☐ 4. Medical Director
- ☐ 5. Job Placement / Job Development Specialist
- ☐ 6. Rehabilitation Counselor / Employment Specialist
- ☐ 7. Workers' Compensation Professional
- ☐ 8. Insurance Industry Professional
- ☐ 9. Advocacy Organization Personnel
- ☐ 10. Consumer / Person with a Disability
- ☐ 11. Family Member of a Person with a Disability
- ☐ 12. Other (Describe) _____

Directions: Using the following scale, please rate each of the topics below in relation to your professional training needs by marking 1 to 4 on the Answer Sheet. Your feedback enables us to plan our training offerings in the coming year in the way that best meets your particular needs. Our thanks to you for your assistance.

		<u>Least</u> <u>Need</u>		<u>Greatest</u> <u>Need</u>	
1.	The provisions of ADA in general.	1	2	3	4
2.	The ADA employment provisions.	1	2	3	4
3.	Which employers are covered under the ADA.	1	2	3	4
4.	Definitions of disability under the ADA.	1	2	3	4
5.	How to prepare job descriptions with essential functions.	1	2	3	4
6.	Identify hiring criteria based on essential functions.	1	2	3	4
7.	Recruit qualified workers with disabilities.	1	2	3	4
8.	Maintain personnel documents of ADA compliance.	1	2	3	4
9.	Accommodate jobs using a variety of modifications.	1	2	3	4
10.	Locate community agencies for help in accommodating jobs.	1	2	3	4
11.	Establish career paths for workers with disabilities.	1	2	3	4
12.	Establish formal in-house policies for ADA compliance.	1	2	3	4
13.	Accommodate training programs for employees.	1	2	3	4
14.	Accommodate company information for employees.	1	2	3	4
15.	Train supervisors on accommodating workers with disabilities.	1	2	3	4
16.	Train fellow employees about their obligations under ADA.	1	2	3	4
17.	Evaluate the physical plant to identify barriers.	1	2	3	4
18.	Integrate workers with disabilities in company social events.	1	2	3	4
19.	Design fringe benefits programs consistent with ADA requirements.	1	2	3	4
20.	Provide medical screening in compliance with ADA.	1	2	3	4
21.	Requirements for confidentiality of company records.	1	2	3	4

22.	Provide appropriate performance reviews to workers with disabilities.	1	2	3	4
23.	Work with unions to ensure that bargaining agreements comply with ADA	1	2	3	4
24.	Include workers with disabilities in continuing education.	1	2	3	4
25.	Company obligations in public accommodations.	1	2	3	4
26.	Approach to conducting a job analysis.	1	2	3	4
27.	Identify resources to assist in job re-engineering.	1	2	3	4
28.	Ability to do a productivity analysis.	1	2	3	4
29.	Federal and State personnel preferential hiring practices.	1	2	3	4
30.	State laws regarding employment and disability.	1	2	3	4
31.	Labor union policies relating to the ADA.	1	2	3	4
32.	Drug testing permissible under ADA.	1	2	3	4
33.	Relationship of ADA to the Civil Rights Act of 1991.	1	2	3	4
34.	Other (specify):_____				
35.	Other (specify):_____				

ADA Information Needs Assessment Survey

1. Please indicate your understanding of the Americans with Disability Act (ADA) which was passed July 26, 1990, prohibiting discrimination against persons with disabilities.

(little/no understanding) 1 2 3 4 5 (excellent understanding)

2. Have you received information on the ADA from: (Check all appropriate)

☐ Trade Association ☐ Disability Groups ☐ Government Agency ☐ Federal ☐ State ☐ Other (write-in)	☐ Chamber of Commerce ☐ Educational Institution ☐ Private Consultant ☐ Law Firm ☐ Word of Mouth ☐ None
---	---

3. Would you like to receive information and/or training regarding the ADA?

	Want Information	Want Training
Title I, Employment		
• Rights and responsibilities of employers, employees	_____	_____
Title II, Public Services		
• Rights and responsibilities of public entities	_____	_____
Title III, Public Accommodations		
• Rights and responsibilities of places of public accommodation	_____	_____
Title IV, Telecommunications		
• Rights and Responsibilities related to the delivery of telecommunications services	_____	_____
Title V, Miscellaneous Provisions	_____	_____
Disability Awareness	_____	_____
Implementing Regulations	_____	_____

Developed by the NIDRR ADA Project Grantee Committee (Bruyère, deJong, Eckel, Glazier, Jones, and Kaplan), December 1991.

4. What is your preferred method of receiving information? Please check as many as you would find useful.

☐ Newsletter	☐ Attend Training Session
☐ In-House Training	☐ View Videotape
☐ Electronic Bulletin Board	☐ Fact Sheets
☐ 800 Number Information Line	☐ Other: _____

Optional

To better serve your individual information and training needs, please tell us more about your organization.

5. What trade publications do you read?
6. If you have a newsletter and would like an ADA article or information about training to public, please include the name and address of the appropriate contact person.

7. What is the size of your organization? (Number of Employees)

1 - 15 ____ 16 - 25 ____ 26 - 100 ____ 101 - 250 ____ 251 - 500 ____ 500+ ____

8. Name of Organization/Company:

Name of Contact Person:

Address:

City, State, Zip Code:

Telephone Number:

Fax Number:

Type of Business:

Developed by the NIDRR ADA Project Grantee Committee (Bruyère, deJong, Eckel, Glazier, Jones, and Kaplan), December 1991.

THE AMERICANS WITH DISABILITIES ACT INFORMATION AND TRAINING NEEDS ASSESSMENT

The Northeast Disability and Business Technical Assistance Center is assessing the needs that business and others have in their efforts to implement the Americans with Disabilities Act (ADA).

Our mission is to provide a variety of services to companies including information, training, and direct consultation. This questionnaire contains items of relevance to the ADA. We would like employers, union representatives, and others to rate the need described in each item, indicate how best the need can be fulfilled, and suggest which company/union representative would be the best recipient for the service. We have left space for comment after each item should you desire to provide additional input.

When rating the need for each item, please use this rating scale:

VERY IMPORTANT "3", SOMEWHAT IMPORTANT "2", NOT IMPORTANT "1"

After you rate the need, please check whether the need could best be met by information service, which would include pre-printed materials, telephone, and correspondence; training, which would consist of a minimum of several hours of first-hand instruction from experts; or direct consultation, which would include experts visiting to provide assistance at your site. Check only one of these services for each item. Finally, there is space provided for you to indicate who best should receive the assistance. Use titles to identify individuals, such as personnel director, medical director, or line supervisor.

	NEED	RATING OF IMPORTANCE	INFORMATION SERVICE	TRAINING	CONSULTATION
1.	Preparing job description with essential functions	_____	_____	_____	_____
2.	Assuring that hiring criteria are based on essential functions	_____	_____	_____	_____
3.	Recruiting qualified workers with disabilities	_____	_____	_____	_____
4.	Accommodating persons with a variety of disabilities during the screening process	_____	_____	_____	_____
5.	Maintaining documents of ADA compliance	_____	_____	_____	_____
6.	Accommodating jobs using modifications such as flextime, assistive technology, etc.	_____	_____	_____	_____

ADA INFORMATION AND TRAINING NEEDS ASSESSMENT

	NEED	RATING OF INFORMATION			
		IMPORTANCE	SERVICE	TRAINING	CONSULTATION
7.	Locating community agencies for help in accommodating jobs	_____	_____	_____	_____
8.	Establishing career paths for workers with disabilities	_____	_____	_____	_____
9.	Establishing formal policies for ADA compliance	_____	_____	_____	_____
10.	Accommodating training program for employees	_____	_____	_____	_____
11.	Accommodating company information channels for workers with disabilities	_____	_____	_____	_____
12.	Training supervisors on accommodating workers with disabilities	_____	_____	_____	_____
13.	Training fellow employees about their obligation under ADA	_____	_____	_____	_____
14.	Evaluating the physical plant to identify barriers	_____	_____	_____	_____
15.	Removing communication and physical barriers from the and physical location of business	_____	_____	_____	_____
16.	Constructing new and remodeling existing space in compliance with ADA	_____	_____	_____	_____
17.	Accommodating workers with disabilities in company social events	_____	_____	_____	_____
18.	Integrating workers with disabilities into company facilities such as cafeteria, EAPs, etc.	_____	_____	_____	_____

ADA INFORMATION AND TRAINING NEEDS ASSESSMENT

	NEED	RATING OF IMPORTANCE	INFORMATION SERVICE	TRAINING	CONSULTATION
19.	Assuring that workers with disabilities have equal access to fringe benefits	_____	_____	_____	_____
20.	Training medical staff to provide services in compliance with ADA	_____	_____	_____	_____
21.	Ensuring that company records contain only permissible info	_____	_____	_____	_____
22.	Providing appropriate performance reviews to workers with disabilities	_____	_____	_____	_____
23.	Working with unions to ensure ADA compliance	_____	_____	_____	_____
24.	Including workers with disabilities in all continuing education opportunities	_____	_____	_____	_____
25.	Identifying company obligations under the Public Accommodations title of the ADA	_____	_____	_____	_____
26.	Making any company service accessible to customers with disabilities	_____	_____	_____	_____

27. Please indicate the individual within your company who would benefit the most by receiving assistance in each of the categories listed below. Use titles to identify individuals, for example, personnel director, medical director, or line supervisor.

Recruitment _____

Preselection Criteria _____

Reasonable Accommodations _____

ADA INFORMATION AND TRAINING NEEDS ASSESSMENT

The following information is optional. If you provide us with this information, however, we will add your name to our mailing list and keep you informed of any ADA assistance that may be available in your community.

Your Name: _____ Title: _____

Company/Organization: _____

Address: _____

City: _____ State: _____ Zip: _____

Your position title (check one):

Human resource professional	_____	Union representative	_____
Insurance provider	_____	Rehabilitation professional	_____
Independent living center personnel	_____	Consumer/person with a disability	_____
Advocacy/organization representative	_____	Other (specify) _____	

Type of Organization (check one):

Private non-profit	_____	Private for-profit	_____
Public non-profit	_____	Public for-profit	_____

Type of Industry:

Agricultural, fishery, forestry	_____	Maintenance	_____
Construction, contracting, landscaping	_____	Manufacturing	_____
Education	_____	Finance	_____
Food service	_____	Technology	_____
Textile	_____	Human service	_____
Government	_____	Marketing, sales	_____
Hotel, resort	_____	Transportation, utility	_____
Health service	_____	Other (specify) _____	

Union affiliation: _____

About how many people are employed by your organization ? _____

How many of these workers have disabilities ? _____

NEEDS ASSESSMENT QUESTIONNAIRE

To help us better serve your needs in implementing the Americans with Disabilities Act (ADA) please take a few minutes to answer the following questions. Indicate your answer by circling the appropriate number. Thanks for your help.

	None	Some	Moderate	Very	Detailed
What is your level of understanding of the ADA?	1	2	3	4	5
What is the level of understanding of the ADA at your workplace?	1	2	3	4	5

How important to you is each of the following areas of ADA information?	Not at all	Slightly	Moderate	Very	Vital
Employment	1	2	3	4	5
State and Local Government Programs	1	2	3	4	5
Public Transportation	1	2	3	4	5
Privately Owned Public Accommodations	1	2	3	4	5
Architectural Barriers	1	2	3	4	5
Tax Incentives	1	2	3	4	5

How useful to you is each of the following types of information?	Not at all	Slightly	Moderate	Very	Valuable
Printed Materials (Brochures, etc.)	1	2	3	4	5
Self-Help Checklists	1	2	3	4	5
Training Seminars	1	2	3	4	5
Telephone Hotline (800#)	1	2	3	4	5
Computer Based Training	1	2	3	4	5
Video Tape Training	1	2	3	4	5
Electronic Bulletin Board	1	2	3	4	5
Referrals	1	2	3	4	5
One-on-One Assistance	1	2	3	4	5

Developed by Randy Dipner, Rocky Mountain Disability and Business Technical Assistance Center

APPENDIX B

SAMPLE BROCHURES

**MAKING THE ADA
WORK IN OUR
COMMUNITIES**

May 17, 1994

8:30 a.m. - 3:00 p.m.

**Holiday Inn
222 South Cayuga Street
Ithaca, New York**

Challenge Industries, Inc.

**402 - 406 East State Street, P.O. Box 599
Ithaca, New York 14851-0599**

MAKING THE ADA WORK IN OUR COMMUNITIES

May 17, 1994, Ithaca, New York

Program Description

A seminar for municipalities and community-based organizations in Cortland, Schuyler, Seneca, Tioga, and Tompkins Counties to:

- ◆ Sharpen the ADA implementation skills of governmental entities, community-based agencies, and disability advocates.
- ◆ Provide experientially-based updates on still evolving areas of the ADA
- ◆ Explore effective problem-solving techniques.
- ◆ Create a forum for the exchange of technical information, interests, concerns, and best practices for small governmental entities, community-based organizations, and advocates in implementing the ADA

Sponsored By

The Tompkins County ADA Resource Network, the Northeast Disability and Business Technical Assistance Center and its Training Division--The Program on Employment and Disability in the New York State School of Industrial and Labor Relations at Cornell University, and the New York State Office of Advocate for the Disabled in Albany.

Presenters

Brian Black of the Eastern Paralyzed Veterans Association in Rochester, New York

65

Bob Boehlert, Counsel, of the New York State Office of Advocate for the Disabled in Albany, New York

J. Partlow, ADA Training Coordinator, of the Northeast Disability and Business Technical Assistance Center, and the ILR Program on Employment and Disability at Cornell University

Agenda

- 8:30 a.m. Registration and Coffee
 9:00 Program Introduction and Scope
 9:15 Employment Practices Including: Pre-screening, Job Interviews, Job Descriptions, Health Insurance and Medical Tests, Substance Abuse, Reasonable Accommodations, and Unionized Workplaces
 10:15 BREAK
 10:30 Program Accessibility: Responsibilities of Entities, Procedural Requirements, and Transportation
 11:15 Questions and Case Examples
 12:00 p.m. LUNCH (on your own)
 1:15 Architectural Accessibility: Federal Requirements, State Building Code, Barrier Removal, and Resources
 2:15 Implementation Examples
 Problem-Solving Techniques
 Design Standards which are Forthcoming, i.e., Playgrounds, Recreational, etc. Questions
 3:00 Program Evaluation and Summary

Registration Information

The registration fee for this one-day course is \$15 per person, which covers attendance, refreshment breaks, and program materials. Registration deadline date is May 12, 1994.

Cancellations will only be accepted up to three working days prior to the program. Substitutions for registered participants will be accepted at any time.

Please advise us at least 14 days in advance of the seminar if you require an accommodation to fully benefit from this seminar. American Sign Language interpreters will be provided if requested on the registration form or by calling (607) 255-2906 (Voice), (607) 255-2891 (TTY) by May 3, 1994.

In case of inclement weather, call the Holiday Inn at 607/272-1000 to learn of cancellation.

Registration Form

MAKING THE ADA WORK IN OUR COMMUNITIES

May 17, 1994
Ithaca, New York

Name _____

Position Title _____

Organization _____

Address _____

City _____

State _____

Zip _____

Day Phone Number _____

Fax Number _____

Accommodations Requested: _____

(or call Program on Employment and Disability, (607) 255-2906, TTY (607)-255-2891)

is is is is is is is is is

The registration fee for this one-day course is \$15 per person, which covers attendance, refreshment breaks, and program materials.

Due to limited seating, your reservation for attendance must be accompanied by payment and received by May 12, 1994.

66

Enclosed is \$_____ to register _____ person(s).

Please duplicate this form for additional registrations.

Register by sending the completed form and payment (checks should be made payable to Challenge Industries) to: Challenge Industries, Inc., 402 - 406 East State Street, P.O. Box 599, Ithaca, New York 14851-0599.

BEST COPY AVAILABLE

PROGRAM ON EMPLOYMENT AND DISABILITY

The *Program on Employment and Disability* specializes in providing educational resources, training, and technical assistance on issues of disability and the workplace for employers, human resource professionals, union leadership, state and local government officials, job trainers, rehabilitation service providers, education personnel, and disability advocacy organizations.

Operating within the Extension Division of Cornell University, New York State School of Industrial and Labor Relations, the *Program on Employment and Disability* brings together an understanding of disability issues with expertise in workplace human resource management and labor relations.

The *Program on Employment and Disability* serves as the training division of the Northeast Disability and Business Technical Assistance Center in Federal Region II (N.Y., N.J., Puerto Rico, and the Virgin Islands). Cornell University is authorized by the National Institute on Disability and Rehabilitation Research (NIDRR) to provide information, materials, and technical assistance to individuals and entities that are covered by the Americans with Disabilities Act (ADA).

A nationally-recognized training resource, the *Program on Employment and Disability* now offers a curriculum of over fifty courses to community rehabilitation programs and supported employment service providers developed under sponsorship of the U.S. Department of Education, Rehabilitation Services Administration. In addition, the *Program on Employment and Disability* also serves as a transition technical assistance center as part of New York State's Transition Systems Change Initiative.

CORNELL UNIVERSITY

New York State School of Industrial & Labor Relations

Dispute Resolution

in the

Workplace

under the

Americans with

Disabilities Act:

A Labor-Management Conference

May 19 & 20, 1994

at

SUNY College at Old Westbury

Old Westbury, New York

Sponsored by
Cornell University/ILR
Long Island Extension
and

Program on Employment and Disability

CORNELL

UNIVERSITY

New York State School of Industrial & Labor Relations

SUNY College at Old Westbury

Old Westbury, New York 11568-0210

Non-Profit Org.

U.S. Postage

PAID

Farmingdale, NY

Permit No. 391

Program Description

The Americans with Disabilities Act of 1990 (ADA) requires employers and unions to provide reasonable accommodations for qualified persons with disabilities who can perform the essential functions of job. The Act specifies an informal, interactive process for reaching reasonable accommodation which emphasizes problem solving on a case by case basis, consultation with the person to be accommodated. In unionized workplaces, the process poses questions of legally defined rights and responsibilities of labor management in collective bargaining.

This two-day program explores the problem solving process specified in the ADA and presents an approach for effective ADA implementation by applying the principles of mutual gains bargaining to reasonable accommodation issues. Through practical instruction and case study simulations, participants learn to adapt the steps of mutual gains problem-solving to issues of reasonable accommodation under ADA.

Program Components

- Major Employment Provisions of the ADA
- Basics of Mutual Gains Bargaining
- Focus on Interests, Not Positions
- Options for Reasonable Accommodation
- 69. Skills for ADA Implementation

This program is co-sponsored by the L. I. District Office of the New York State School of Industrial and Labor Relations Extension Division, Thomas J. Germano, PhD, Director.

Program Instructors

P. J. Partlow is the Coordinator of ADA Training for the Northeast Disability and Business Technical Assistance Center and Cornell's Program on Employment and Disability.

Tom Quimby is the Director of the Capital District Office of the New York State School of Industrial and Labor Relations of Cornell University in Albany, New York.

Susan Woods is a Senior Extension Associate at Cornell University's School of Industrial and Labor Relations, where she designs and instructs education and training programs for labor relations practitioners.

Target Audience

This program is intended for human resource professionals, managers, supervisors, union officers and stewards, rehabilitation professionals, persons with disabilities, attorneys, arbitrators and other labor relations practitioners involved in development of employment options for reasonable accommodations under the ADA.

Time, Location, and Cost

This program will run from 9:00 am to 4:30 pm each day. Registration begins at 8:30 am on May 19, 1994, at SUNY College at Old Westbury, Campus Center, Room H-301, Old Westbury, New York.

Individual Rate: \$295.00 per person (includes instruction, materials, and lunch for two days).

Group Rate: \$250.00 per person, available to groups of four or more from the same organization or employer/union bargaining group.

Registration Form

Dispute Resolution in the Workplace
under the
Americans with Disabilities Act
May 19 & 20, 1994

Name _____		
Organization _____		
Address _____		
City _____	State _____	Zip _____
Day Phone Number _____		Fax Number _____

Register by sending the completed form and check (payable to Cornell University) to Cornell University, SUNY College at Old Westbury, Old Westbury, NY 11568-0210. For information call (516)876-3040.

Enclosed is \$ _____ to register _____ person(s). Please duplicate this form for additional registrations.

Registration deadline is May 12, 1994. Cancellations will only be accepted up to three working days prior to the program. Substitutions for registered participants will be accepted at any time.

Services for persons with disabilities: If accommodations are required for an individual with a disability to fully benefit from this program, please notify our office at least two weeks in advance.

Funds for this program are made available in part through a grant No. H133D10113 from the National Institute on Disability and Rehabilitation Research to the United Cerebral Palsy Association of New Jersey to fund the Northeast Disability and Business Technical Assistance Center.

APPENDIX C

CALCULATING TRAINING PROGRAM COSTS

CALCULATING TRAINING COSTS

COURSE NAME:		
COSTS	PROJECTED	ACTUAL
A. ADVERTISING:		
Purchase of mailing list/service		
Purchase of labels and/or envelopes		
Printing of announcement		
Mailing of announcement - bulk or first class		
B. MEETING ROOM/CONFERENCE COSTS:		
Meeting room rental		
Audio-visual equipment rental		
Name tags and course signs		
Coffee breaks and/or afternoon refreshment breaks		
Lunches, including gratuity - <i>If you decide to provide lunches, the conference facility may provide the meeting space free of charge.</i>		
C. INSTRUCTOR FEES AND EXPENSES:		
Instructor #1 fee		
Instructor #2 fee		
Instructor #3 fee		
Instructor #4 fee		
Instructor #1 travel, including: airfare versus automobile, lodging, meals, and miscellaneous (taxis, limos, mileage to airport, etc.)		
Instructor #2 travel		
Instructor #3 travel		
Instructor #4 travel		

D. TRAINING MATERIALS:	PROJECTED	ACTUAL
Printing or duplicating of materials		
Materials presentation - in binders or folders		
Purchase of additional publications		
Mailing of materials to training site		
Miscellaneous supplies (handouts, markers, pens, etc.)		
E. REASONABLE ACCOMMODATIONS:		
Braille		
Large print		
Interpreter services (sign language/note takers, FM, Audio loops, etc.)		
Audio tapes/computer disk/spanish		
Lift-equipped transportation (from airport, etc.)		
Sighted Guides		
6. STAFF TIME AND TRAVEL:		
Staff travel to training site - airfare versus automobile, lodging, meals, and miscellaneous (taxis, limos, mileage to airport, etc.)		
Clerical and professional time to perform above duties * (see following page)		
Total cost of above		
Less amount contributed by grant or other outside sources		
Overhead (profit margin) on sum of two items above		
Total of three items above		

To calculate a breakeven cost, total up all above applicable costs and divide by anticipated number of participants.

$$\left(\frac{\text{amount from total}}{\text{total}} \right) \text{ total cost} \div (\quad) \text{ participants} = (\quad) \text{ breakeven fee to be charged}$$

APPENDIX D

TRAINING COORDINATION PLAN, TRAINING COORDINATION CHECKLIST AND TRAINING ACCOMMODATIONS SATISFACTION SURVEY

TRAINING COORDINATION CHECKLIST

Three Months Before the Program

- * Identify the program to be run.
- * Select a training location and dates to be scheduled.
- * Cost out the program and identify a break-even cost.
- * Secure instructors/speakers for program. Send them a letter and contract confirming their training times, fee, lodging information, and requesting their audio-visual equipment needs.
- * Secure a training site and a block of sleeping rooms (if necessary) at a hotel.
- * Obtain a mailing list.
- * Prepare brochure for printing and mailing.
- * Request draft of training materials from instructors/speakers.
- * Place order for any publications, resources, or brochures to be distributed in the program.
- * Gather information surrounding training site, i.e., accessible transportation, nearest airport, directions/maps. This information will be presented to the program participants. If you have this information early enough, you will be prepared for those questions that arise surrounding these issues.

Two Months Before the Program

- * Identify any reasonable accommodations requested as you receive the registration forms back. Conference planners should follow-up and contact participants who request accommodations to ensure an "appropriate accommodation." They might include needing a copy of the manual in braille format, on audio tapes, in large print, or in Spanish. Braille materials will usually take at least two weeks, so be sure to leave enough time. It would also be best if the person requesting the braille copy could receive their manual prior to the program so they have time to review it.
- * Follow-up with instructors as to their training materials for any corrections, additions, or deletions.
- * Check on status of the orders for publications, resources, or brochures.
- * Arrange for sighted guides at the meeting site.

Four Weeks Before the Program

- * Send each registered program participant a confirmation letter and include information about their lodging reservations, maps with directions to the training site, and any pre-reading materials that may be required.
- * Arrange flights for instructor (if needed) and mail tickets to them and flights for any staff going to training.
- * Finalize training materials.

Two Weeks Before the Program

- * Determine whether or not to run the program. Refer to your original costing of the course for the breakeven. If the program should need to be cancelled, immediately notify the instructors, training site, lodging facility, and each registered participant.

- * If the course is to be run, send the hotel a rooming list for the lodging of participants (if necessary), course instructors, and staff.
- * Send the program materials to be duplicated. Be sure to anticipate a few late registrants by making at least two extra copies, and make a copy for each instructor.
- * Put materials together for the program, include: cover page, agenda, and autobiographical sketches of program instructors and program coordinators; materials in binders, with indexes; tent cards (you may choose to use name tags instead); participant list; and announcements for upcoming programs scheduled (this time is needed for ground shipping).
- * Other items that may need to be included are: transparencies, handouts, sign-in sheet, certificates of completion, evaluations, pencils/pads, black markers, calculators, tape, paper clips, stapler, etc.

One Week Before the Program

- * Finalize arrangements for any catered functions, e.g., refreshment breaks, luncheons, afternoon breaks, and any dinner or social hour.
- * Arrange for transportation of instructors and participants to and from the hotel to the training site.
- * Place order for audio-visual equipment rental.
- * If a request has been made for wheelchair accessible transportation, arrangements will need to be made at least two weeks prior to the needed date.

Morning of the Program

- * Distribute materials in training room. If there is going to be a registration table set up, a sign-in sheet should be made available as participants arrive. Distribution of the training materials can also be done as they sign in. If you will be using name tags instead of tent cards, they should also be made available as participants arrive.
- * At this stage, those participants whose registration fee has not yet been paid can be questioned.
- * Check to make sure the refreshments are available.
- * Check to make sure audio-visual equipment is there/will be there and working.
- * Confirm with the instructors and participants that everything is satisfactory. The heat may need to be turned up or down, a microphone may need to be turned on, or a table may need to be moved. There are always those little last minute things that need to be taken care of.
- * Introduce the speakers and course

Closing the Program

- * Once everyone has completed an evaluation form, certificates of completion are passed out for those in attendance at the training program.

One Week After the Program

- * After the evaluations have been tabulated and comments collected, a thank you letter with the summary attached is always a nice follow-up for the instructors.

TRAINING COORDINATION CHECKLIST

Course Title: _____ Dates: _____

Site/Location: _____

Please check to the right when completed.

1. MARKETING:

Brochure Designed _____
Brochure to Blueline _____
Brochure to Print _____
Brochure Mailed _____

2. INSTRUCTORS:

Instructors Selected _____
(list on back of form and complete table)
Confirmation letter sent _____

3. FACILITIES COORDINATION:

Identify Site _____
Pick Training Dates _____
Confirmation letter to site _____
Refreshments Ordered _____
A.V. Equipment Ordered _____
Contract Received _____
Hotel/Lodging Arrangements Identified _____
Lodging Confirmation Sent _____

4. PARTICIPANT ARRANGEMENTS:

Confirmation letter sent _____
Special accommodations arranged _____
Lodging arrangements made (if necessary) _____

5. COURSE MATERIALS:

Materials Requested _____
Materials Received _____
Other Handouts Ordered _____
Other Handouts Received _____
(list "other handouts" requested on back)
Materials Compiled and Formatted _____
Tabs Completed _____
Manual Assembled _____
Materials Mailed _____

6. DATA COLLECTION / SUMMARIES:

Print Evaluation and Training Needs Form _____
CRC/CCWAVES Registration Form _____
Registration Sign-in Sheet _____
Evaluations Summarized _____

- 2a. **INSTRUCTORS CONTINUED:** Please document names of instructors, consultant learners, and site supervisors.

CONSULTANT NAME	CONTACT INFORMATION	PHONE CONFIRMA- TION	CONFIRMING LETTER	CONTRACTS SENT	THANK YOU/ EVAL.

- 4a. **COURSE MATERIALS CONTINUED:** Please list all materials ordered for course.

MATERIAL TO BE ORDERED	ORDER INFORMATION	ORDER DATE	RECEIPT DATE

Participant Name: _____

Course Name: _____

TRAINING ACCOMMODATION SATISFACTION SURVEY

This survey is being used to determine your level of satisfaction with the training site, lodging accommodations, and the training in general. Please read through the questions below and let us know how we did.

Hotel Accommodations

- Yes No Did you use the registration form to indicate any special accommodation needs you might have? If so, were these needs met?
- Yes No Did you encounter any difficulties in registering at the hotel?
- Yes No Was your hotel room accessible? If not, please explain.
- Yes No Was your hotel room in close proximity to the elevator?
- Yes No Did the hotel have accessible facilities for public dining?
- Yes No Did you encounter any special problems? If so, were efforts made by the hotel to meet your needs?

Transportation

- Yes No Were you able to obtain needed appropriate transportation from the airport to the hotel?
- How were arrangements for this transportation made? Please list the name of the transportation service provider.
- Yes No Was the transportation cost appropriate?

Training

- Yes No Did you have any problems in accessing or using the training site, such as room set up, refreshment break set up, or catered function set up? If so, what problems did you encounter?
- Yes No Were the training materials provided in an accessible format for you, e.g. large print, braille, audiotapes? If not, please indicate your specific needs.
- Yes No Were there problems encountered attending this training that were disability related? Please describe the problems that you encountered.

Other

If there are any other problems you encountered, problem areas you believe are not covered by this survey or any suggestions for improvement of services that can be made, please describe them.

APPENDIX E

EXAMPLES OF INSTRUCTOR AND PARTICIPANT CONFIRMATION LETTERS AND INSTRUCTOR THANK-YOU LETTER

New York State School of Industrial and Labor Relations

Ithaca, New York 14853-3901

*EXAMPLE OF PARTICIPANT
CONFIRMATION LETTER*

August, 1994

Dear Participant:

I am pleased to inform you that you have been selected as a participant for the course entitled The Employment Provisions of the Americans with Disabilities Act, which is being conducted by the ILR Program on Employment and Disability at Cornell University under the sponsorship of the Northeast Disability and Business Technical Assistance Center, funded by the National Institute on Disability and Rehabilitation Research. This two-day course is being held August 17 - 18, 1994, at the Sheraton Inn in Syracuse, New York. The sessions will start at 9:00 a.m. and end at approximately 4:30 p.m. each day.

We have reserved a block of rooms at the Sheraton Inn Liverpool, 7th North Street and Electronics Parkway, in Syracuse, New York; telephone number 315/457-1122. If you will be in need of lodging while in attendance at this training program, please contact the Sheraton Inn directly to make your reservations. The rates available are \$69.00 per night for a single, and \$79.00 per night for a double. You and/or your agency will be responsible for all your travel and meals costs. Enclosed is a participant list (to date), in case you would like to carpool. For your convenience, also enclosed is a map to the Sheraton Inn.

If you are required to cancel for any reason, our office must be contacted prior to making substitutions. If you have any questions or require further information, please call either Michelle Eastman or myself at 607/255-2906 or TDD at 607/255-2891.

Regards,

Susanne M. Bruyère, Ph.D., C.R.C.
Training Director, Northeast Disability and Business
Technical Assistance Center

SMB/me
Enclosures

New York State School of Industrial and Labor Relations

Ithaca, New York 14853-3901

**EXAMPLE OF INSTRUCTOR
CONFIRMATION LETTER**

June, 1994

Jane Doe
100 Main Street
Ithaca, New York 14850

Dear Jane:

This comes to confirm your willingness to assist Cornell University in the provision of a training program entitled *A Two-Day Program on the ADA Employment Provisions*, which is being held August 17 - 18, 1994. We would like your assistance to serve as an instructor on Day One, which will be conducted from 9:00 a.m. to 5:00 p.m. in Syracuse, New York on August 17, 1994. Your presentations will be from approximately 9:15 a.m. - 11:00 a.m. on the topics of the interface of ADA with existing state and federal laws relating to the rights of people with disabilities, pre-employment restrictions in advertising the job and pre-screening, and how ADA will affect employer health and life insurance premiums, followed by a panel; and from 1:15 p.m. - 2:30 p.m. on permissible limits of medical and drug testing, in the pre-employment selection process, confidentiality requirements and employee records under the ADA, and safety concerns to self or others under the ADA, followed by a panel.

It would be most helpful if you could provide us with your materials in advance, so that we can duplicate them and insert them in our manual to be provided to each participant. A convenient deadline date for receipt of your materials would be July 15. In addition, please call Michelle Eastman at 607/255-2906 to let her know what your audio-visual equipment and lodging needs are going to be.

The Northeast Disability and Business Technical Assistance Center will reimburse your travel and per diem expenses associated with this conference. After the program, please sign the enclosed standard voucher, fill out the expense reimbursement form, attaching original receipts, and return all to our office as soon as possible. You should receive reimbursement of your expenses approximately four to six weeks after they are received in our office.

I look forward to seeing you on June 17; if you have any questions about this program prior to that time, please call me at 607/255-2906.

Sincerely yours,

Susanne M. Bruyère, Ph.D., C.R.C.
Training Director, Northeast Disability and Business
Technical Assistance Center

SMB/me
Enclosures

New York State School of Industrial and Labor Relations

Ithaca, New York 14853-3901

EXAMPLE OF INSTRUCTOR THANK YOU LETTER

September 27, 1994

Robert J. Boehlert
Counselor
New York State Office of Advocate for the Disabled
Empire State Plaza, 10th Floor
Albany, New York 12223-0001

Dear Bob:

This letter comes to extend to you a word of sincere appreciation for your contribution as a developer and presenter in the training program entitled *Implications of ADA for Recruitment, Screening, and Hiring Practices*, which was conducted in Albany, New York, on July 21, 1994.

I am enclosing for your information a copy of the summary of the participant evaluation forms completed at the end of the training session. The overall evaluation rating for this program was 4.4 on a 5 scale, with 5 being "excellent".

I look forward to working with you on the other courses we have scheduled with you and Rosemary for 1995.

Sincerely yours,

Susanne M. Bruyère, Ph.D., C.R.C.
Training Director, Northeast Disability and
Business Technical Assistance Center

SMB/me

Enclosure



APPENDIX F

EXAMPLES OF TRAINING MATERIALS PACKAGING

EXAMPLE OF USE OF COVER PAGE

*The Employment Provisions of
the Americans with
Disabilities Act of 1990*

August 17 - 18, 1994

Sheraton Inn Syracuse
Liverpool, New York

Funds for this program are made available in part through grant No. H133D10113 from the National Institute on Disability and Rehabilitation Research to the United Cerebral Palsy Associations of New Jersey to fund the Northeast Disability and Business Technical Assistance Center (Richard Dodds, Project Director).

EXAMPLE OF AGENDA

The Employment Provisions of the Americans with Disabilities Act

August 17 - 18, 1994
Sheraton Inn Syracuse, Liverpool, New York

TENTATIVE AGENDA

DAY ONE

- 9:00 a.m. Welcome and Introductions
- John Mandyck, Director of Government Relations, Greater Syracuse Chamber of Commerce, Syracuse, New York*
- 9:15 a.m. * An Overview of the Americans with Disabilities Act of 1990
* Interface of ADA with existing state and federal laws relating to the rights of people with disabilities
- Robert Boehlert, Counsel, New York State Office of Advocate for the Disabled, Albany, New York*
- 10:30 a.m. Break
- 10:45 a.m. * Pre-employ restrictions in job advertising and applicant screening
* Reasonable accommodation in the application/screening process
* Permissible limits of medical and drug testing in the pre-employment and post-employment process
- Marjorie Karowe, Esq., Schenectady, New York*
- 12:00 p.m. Lunch
- 1:15 p.m. * Confidentiality requirements and employee records under the ADA
* Safety concerns to self or others under the ADA
* How ADA will effect employer health and life insurance premiums
- Marjorie Karowe, Esq., Schenectady, New York*
- 2:30 p.m. Break
- 2:45 p.m. * The reasonable accommodation process when an employee is injured on the job
* The complaint process and remedies under the ADA
- Lonny Dolin, Attorney, Harris, Beach, and Wilcox, Rochester, New York*
- 4:30 p.m. End of Day One

DAY TWO

- 9:00 a.m. * ADA and equity for promotional opportunities for people with disabilities
 * Disability as a facet of cultural diversity in the workforce

 To Be Named
- 10:15 a.m. Break
- 10:30 p.m. Reasonable accommodations that will facilitate retention of persons with disabilities

 Deborah Buck, Project Manager, Technology Related Assistance for Individuals with Disabilities (TRAID), New York State Office of Advocate for the Disabled, Albany, New York
- 11:30 a.m. State and local resources on disability available to employers

 To Be Named
- 12:00 p.m. Lunch
- 1:15 p.m. * The Interface between the ADA and the NLRA
 * The concept of reasonable accommodation and undue hardship as applied to collective bargaining agreements and contract administration
 * The representative roles of employers, unions, and the individuals when a disability in making a reasonable accommodation
 * The appropriate process for a union member with a disability when seeking a reasonable accommodation

 Louis DiLorenzo, Attorney, Bond, Schoeneck, and King, Syracuse, New York; and Jules Smith, Attorney, Blitman and King Law Firm, Syracuse, New York
- 2:45 p.m. Break
- 3:00 p.m. Panel discussion of the above issues

 Louis DiLorenzo and Jules Smith
- 4:15 p.m. Summary and Evaluations
- 4:30 p.m. End of Program

*EXAMPLE OF USE OF ACKNOWLEDGEMENTS
FOR CURRICULUM DEVELOPERS OR INSTRUCTORS
(HEADERS) AND FUNDING SOURCE/SPONSORS (FOOTERS)*

**THE AMERICANS WITH
DISABILITIES ACT OF 1990 (ADA)**

- Provides Civil Rights Protection to individuals with disabilities, similar to that provided to individuals on the basis of race, sex, national origin and religion.
- Guarantees equal opportunities for individuals with disabilities in the areas of:
 - employment
 - state and local government services
 - public transportation
 - privately operated transportation available to the public
 - places of public accommodation
 - telephone services offered to the general public
- Most sweeping piece of civil rights legislation since the Civil Rights Act of 1964.

EXAMPLE OF PROFESSIONAL BIO-SKETCHES
OF PROGRAM COORDINATORS AND INSTRUCTORS

**The Employment Provisions of
the Americans with
Disabilities Act of 1990**

August 17 - 18, 1994

Syracuse, New York

COORDINATOR:

Susanne M. Bruyère, Ph.D., C.R.C., is currently the Director of the ILR Program on Employment and Disability and Project Director of the National Materials Development Project on the Employment Provisions of the Americans with Disabilities Act of 1990. This is a project funded by the National Institute of Disability and Rehabilitation Research to the ILR School of Cornell University, in collaboration with the Assistive Technology Rehabilitation Engineering Program at the National Rehabilitation Hospital in Washington, D.C. Dr. Bruyère is a New York State certified special education teacher, a certified rehabilitation counselor, and has been designing and conducting training for rehabilitation personnel since 1975. She has a doctoral degree in Rehabilitation Psychology from the University of Wisconsin-Madison and is the Immediate Past President of the Division of Rehabilitation Psychology of the American Psychological Association.

ABOUT THE PRESENTERS:

Robert J. Boehlert has been Counsel to the New York State Office of Advocate for the Disabled since August, 1981. Prior to that time, he was Assistant and then Associate Counsel with the New York State Health Planning Commission where he worked on a variety of legislative and policy issues. Mr. Boehlert's primary areas of responsibility include the development and promotion of the legislative package of the Advocate's Office, the review of the legislation proposals submitted by other state agencies or individual legislators, the review of pending State/Federal regulations and policies affecting persons with disabilities and the provision of general legal services to the staff of the Advocate's Office. Mr. Boehlert is a graduate of John Carroll University, Albany Law School of Union University and participated in the Cornell University - Sloan School of Hospital and Health Services Administration Health Executives Development Program.

Marjorie E. Karowe, Esq., is a practicing attorney in labor, employment law, and employee benefits consulting, and the general counsel for the Civil Service Employee Association, Inc., and a member of the firm of Patterson, Sampson, Gensburg and Griffin in Troy, New York. Mr. Karowe is a member of the New York State Bar Association, and has served on the Advisory Board of the Government Law Center, Albany Law School, and the Board of Directors of the Business Maintenance Organization. She is a graduate of the Albany Law School, and Smith College.

Jules L. Smith is a partner in Blitman and King, a law firm with offices in Rochester and Syracuse. His legal practice is concentrated in employment law, including: anti-discrimination law (exclusively for labor organizations); pension and employee benefit law; and asbestos and other tort litigation. Mr. Smith has been the Union Chair for the Equal Opportunity Committee Labor and Employment Law Section of the American Bar Association (1985-1988) and the Chair of the Labor and Employment Law Section of the New York State Bar Association (1984-1985).

EXAMPLE OF CONTACT INFORMATION

CONTACT INFORMATION *for Program Coordinator and Instructors*

NAME & TITLE
ADDRESS
CITY, STATE ZIP
PHONE
TDD (If applicable)
FAX (Optional)

NAME & TITLE
ADDRESS
CITY, STATE ZIP
PHONE
TDD (If applicable)
FAX (Optional)

NAME & TITLE
ADDRESS
CITY, STATE ZIP
PHONE
TDD (If applicable)
FAX (Optional)

NAME & TITLE
ADDRESS
CITY, STATE ZIP
PHONE
TDD (If applicable)
FAX (Optional)

PACKAGING CHECKLIST

- ☐ Training Manuals
- ☐ Sign-In Sheet
- ☐ Continuing Education Unit Request Form
- ☐ Training Evaluations
- ☐ Certificates of Completion
- ☐ Self-Disclosure Form
- ☐ Handouts/Resource Materials
- ☐ Transparencies
- ☐ Markers

APPENDIX G

EXAMPLE OF EFFECTIVE OVERHEADS

Definitions for Instruction

- Instruction
- Learning
- Technology

Example of 36 point print—

Definition for Instruction

- Instruction
- Learning
- Technology

Example of 24 point—

Definition for Instruction

- Instruction
- Learning
- Technology

Example of 24 point print—

Definitions for Instruction

- Instruction
- Learning
- Technology

Example of 18 point—

Defintion for Instruction

- Instruction
- Learning
- Technology

An appropriate mandate for providers of information and instruction is—

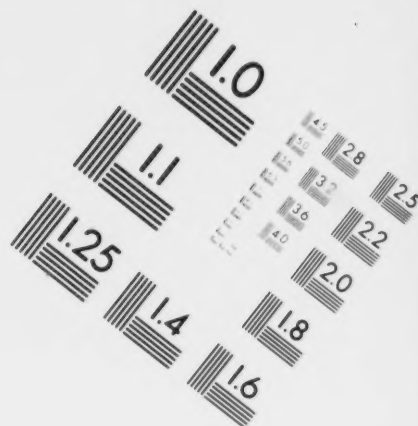
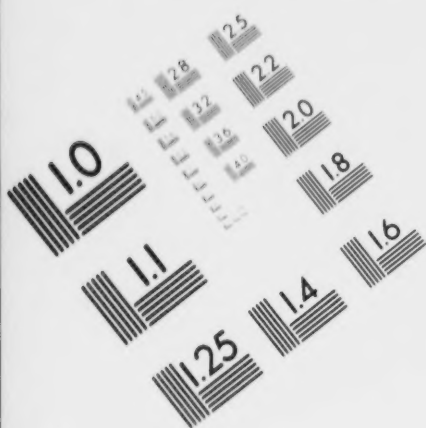
1. Give people the information they need
2. When they need it
3. In a form (format) they can use



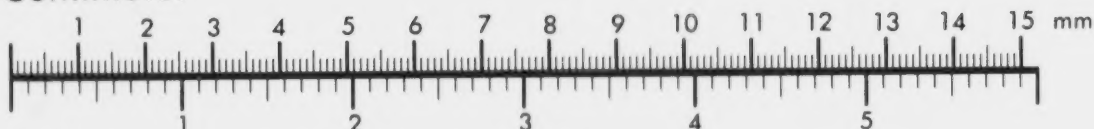
AIM

Association for Information and Image Management

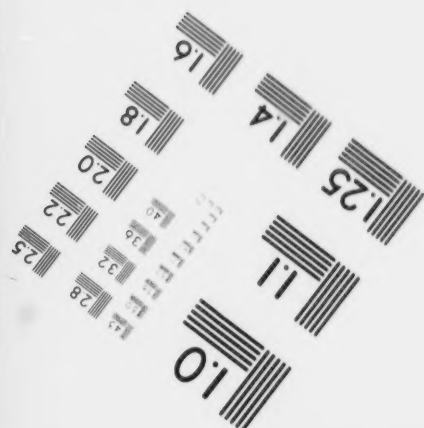
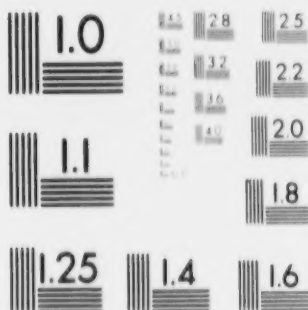
1100 Wayne Avenue, Suite 1100
Silver Spring, Maryland 20910
301/587-8202



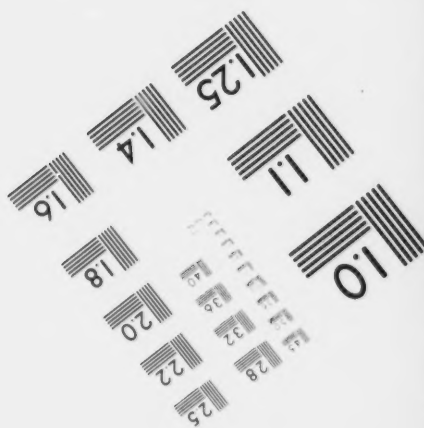
Centimeter



Inches



MANUFACTURED TO AIM STANDARDS
BY APPLIED IMAGE, INC.





APPENDIX H

EXAMPLE OF TRAINING PROGRAM EVALUATIONS

THE EVALUATION MATRIX

Who/ What to Evaluate	Who Will Evaluate	Method	When	Report To
Objectives	Instructors	Feedback Form	Before Training	3rd Party
Materials	Participants	Interview	Ongoing	Instructor
Participants	Supervisors	Survey	Immediate	Participants
Instructors	Managers	Focus Group	Periodic	Manage- ment
Facilities	3rd Party	Audit Reports	Long Range	
Procedures		Exam		
Content		Observa- tion		
Cost				
Delivery Method				

BEST COPY AVAILABLE

PROGRAM EVALUATION

Program Name: _____

Program Date: _____

Program Location: _____

Your evaluations of the program content and the quality of instruction are extremely important to us. A thoughtful and honest evaluation will provide valuable feedback. Did the training work? What needs to be improved?

Program Content:

1. Was the program the right duration? _____ Yes _____ No
Comments: _____
2. Were the materials sequenced and detailed sufficiently for your learning? _____ Yes _____ No
Comments: _____

Evaluation Directions: Using the following rating scale, please provide evaluation on items 3-10 below by putting a rating of 0-5 in the blank to the right of each.

0	1	2	3	4	5
Not Applicable	Poor	Fair	Average Average	Above Average	Excellent

3. To what degree will the content be helpful to you either personally or in your work. 3. _____
Comments: _____
4. To what degree will the print materials be helpful?. 4. _____
Comments: _____

Instructor Evaluation:

- | | | | | |
|----|--|----------|----------|----------|
| 5. | Presentation skills | 5. _____ | 5. _____ | 5. _____ |
| 6. | Content knowledge | 6. _____ | 6. _____ | 6. _____ |
| 7. | Rapport with group | 7. _____ | 7. _____ | 7. _____ |
| 8. | Flexibility | 8. _____ | 8. _____ | 8. _____ |
| 9. | Ability to stimulate participant interest in program content | 9. _____ | 9. _____ | 9. _____ |
10. How would you rate this program overall. 10. _____
Comments: _____
 11. Additional comments and suggestions _____

New York State School of Industrial and Labor Relations

Ithaca, New York 14853-3901

Program Name: _____ Program Date: _____

Instructors: _____ Program Location: _____

PROGRAM EVALUATION

Evaluation Directions: Using the following rating scale, please provide evaluation of this training program on the items below by putting a rating of 0-5 in the blank to the right of each.

0	1	2	3	4	5
Not Applicable	Poor	Fair	Average	Above Average	Excellent

A. Evaluation of **Program Content** and **Instructional Approach**:

1. Clarity of program objectives. 1. _____

Comments: _____

2. Overall program organization. 2. _____

Comments: _____

3. Appropriateness of the degree of difficulty of content. 3. _____

Comments: _____

4. Relevance of program content to personal or professional functioning. 4. _____

Comments: _____

5. Use and adequacy of print materials in support of program content. 5. _____

Comments: _____

6. Overall relevance and usefulness of individual and group exercises. 6. _____

Comments: _____

0	1	2	3	4	5
Not Applicable	Poor	Fair	Average	Above Average	Excellent

7. Effectiveness of media (films, etc.) to support and supplement program content. 7. _____

Comments: _____

8. Availability of resources for future reference and follow-up. 8. _____

Comments: _____

9. The degree to which this program met your objectives/expectations. 9. _____

Comments: _____

10. How would you rate this program overall? 10. _____

Comments: _____

B. Evaluation of ***Instructors' Effectiveness:***

Using the 0-5 rating scale above, please rate each instructor on the following factors:

Instructor

_____	_____
(Name)	(Name)

11. Overall knowledge of topic. _____

Comments: _____

12. Level of overall preparation. _____

Comments: _____

13. Ability to stimulate participant interest in program content. _____

Comments: _____

14. Ability to present ideas clearly and articulately. _____

Comments: _____ 101

0	1	2	3	4	5
Not Applicable	Poor	Fair	Average	Above Average	Excellent

Instructor

_____	_____
(Name)	(Name)

15. Ability to facilitate participation and participants' willingness to express themselves during the program.

_____	_____
-------	-------

Comments: _____

16. Effectiveness of use of visuals and printed materials.

_____	_____
-------	-------

Comments: _____

17. Ability to convey respect for, and openness to, opinions and ideas of program participants.

_____	_____
-------	-------

Comments: _____

18. What was the most worthwhile part of this program?
(Please explain)

19. What was the least worthwhile part of this program?
(Please explain)

20. Do you have suggestions for ways we can improve this program?
(Please explain)

MODULE II

SUPPLEMENTAL MATERIALS

Informational Resources to Enhance Training

Developed by the staff and faculty of Cornell University's *Program on Employment and Disability*

The compilation of these materials was made possible by a grant from the Illinois Planning Council on Developmental Disabilities in collaboration with the Great Lakes Disability and Business Technical Assistance Center at the University of Illinois at Chicago (Grant No. 9411) to Cornell University's Program on Employment and Disability to serve as an *ADA Materials Development and Training Project*.

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3	Directory of Federal and Federally Funded ADA Technical Assistance
4	Directory of Illinois State Resources
5	ADA Resources on Targeted Disabilities
6	Title I Media Resources

Section One

ACCOMMODATIONS AND TARGETED DISABILITIES

These brochures can be reproduced for dissemination on 11 x 17 inch paper.

EMPLOYMENT CONSIDERATIONS FOR PEOPLE WHO HAVE DIABETES

Program on Employment and Disability
New York State School of Industrial
and Labor Relations
CORNELL UNIVERSITY

What is Diabetes?

Diabetes mellitus results from the body's inability to use food effectively for energy, resulting in elevated blood sugar levels. Either the pancreas does not produce adequate insulin or the body cannot use the insulin effectively. There are two kinds of diabetes:

Type I, appropriately called insulin-dependent diabetes (formerly called juvenile onset); OR

Type II, known as non-insulin-dependent (formerly called adult onset diabetes). The title is not entirely accurate, since some Type II persons with diabetes must take insulin injections.

Type I diabetes represents only 10% of the 13,000,000 Americans with diabetes and is considered the more serious type. Once diagnosed, persons with diabetes Type I must monitor their blood sugar daily.

Persons with diabetes Type II, representing the other 95% of those with the condition, can control the disease with weight control, appropriate diet, and exercise. Many, but not all, take oral medication.

Half the people with diabetes do not know they have the condition. This may be dangerous since diabetes can lead to complications such as kidney problems, decreased vision, and foot disease, particularly if not well controlled. Employers may offer diabetes detection and education programs, using the resources of the local American Diabetes Association. This can alert employees to the symptoms of diabetes and encourage them to be tested so they can control the disease appropriately.

Diabetes cannot be cured, but it can be controlled. The person with diabetes needs to take responsibility for maintaining a good diet, exercising, and seeking appropriate medical care. Those who take good care of themselves can be healthier than other employees simply because they are knowledgeable about and participate in a healthy life-style.

Diabetes and the Americans with Disabilities Act (ADA)

The ADA defines a person with a disability in three ways:

- (1) An individual who has a physical or mental impairment that substantially limits one or more major life activities;
- (2) Someone who has a record of such an impairment; or
- (3) Someone who is regarded as having such an impairment.

Diabetes is not well known or understood by many employers. Many people with diabetes live and work successfully for years without negative impact on their work. Because their condition does not impact their ability to do their job, they may choose to not make their employer aware of their condition. Fear of discrimination keeps many employees with diabetes quiet.

In what areas might employers discriminate? As with any disability, the potential to discriminate exists at any point in the employment process.

Examples:

- A nurse sent her resume to 16 institutions, and in her cover letter mentioned her diabetes. She had only two responses, and no job offer.

- A man with diabetes initially hired to run a shipboard boutique was rejected by the company doctor because a diabetic woman passenger slipped into a coma 20 years ago and died.

- An airline employee was forced to take two 10-minute breaks rather than one 20-minute break, during which time she had to test her blood sugar, take insulin, and eat. The change in her break schedule was insufficient time to complete the tasks required to maintain good diabetic control.

These situations reflect the fear and misunderstanding surrounding this condition. As with any other disability, employers are required by ADA to look at the actual limitations, not perceived limitations.

Workplace Implications of Diabetes

Despite good monitoring of diet, medication, and exercise, some people with diabetes may experience insulin reactions caused by hypoglycemia (low blood sugar). Insulin reaction can be caused by not eating at appropriate times, irregular working schedules, and/or change in exercise level.

A person experiencing hypoglycemia may become suddenly weak, shaky, or faint. Many people with diabetes recognize these symptoms and will immediately drink orange juice or eat something high in sugar. It only takes a few minutes for the person's blood sugar to return to normal.

The American Diabetes Association states, "Diabetes as such should not be a cause for discriminating against

any person in employment. People with diabetes should be individually considered for employment weighing such factors as the requirements or hazards of the specific job, the individual's medical condition, and their treatment regimen (diet, oral hypoglycemic agents, and insulin). Any person with diabetes, whether insulin-dependent or non-insulin-dependent, should be eligible for any employment for which he or she is otherwise qualified."

What Types of Jobs Do People with Diabetes Do?

There are very few work restrictions for people with well controlled diabetes. Employers should not assume that diabetes will increase safety concerns, and must demonstrate that any medical examination or other screening be job related and consistent with business necessity. In addition, individuals should be assessed for their present ability to safely perform the essential functions of the job.

Problems may occur with those who cannot maintain blood sugar control, and consequently they should not work in dangerous areas. However, since this is quite uncommon, the employee, based on his or her experiences, should generally make this decision, not the employer. Diabetes is a highly individualized condition. Ideally, the employee, his or her doctor, and the employer work together to ensure success.

Performance Management

For the most part, people with diabetes should need no special treatment from their supervisors. An understanding

of the condition and the possible need for regular work schedules and meal breaks may be required as a reasonable accommodation.

Living successfully with diabetes means that a person must be self-disciplined, self-aware, and self-responsible, all valued characteristics in many jobs.

Reasonably Accommodating a Person who has Diabetes

The Americans with Disabilities Act requires employers to "reasonably accommodate" the limitations imposed by a person's physical or mental disability. Reasonable accommodation is defined as modification or adjustment of a job, employment practice, or the work environment that makes it possible for a qualified person with a disability to be employed. The law states that the employer needs to accommodate from the first contact with the person with the disability, during the application process, on the job, in training, on the work site, and when considering promotions. If job duties change, new accommodations may need to be made.

The ADA requires an employer to accommodate unless doing so would cause the employer an undue hardship. If an employer finds that the cost of an accommodation would impose an undue hardship and no funding is available from another source, an applicant or employee with a disability should be offered the option of paying for the portion of the cost that constitutes an undue hardship, or of providing the accommodation.

The ADA requires that employers only accommodate known disabilities. Some people with diabetes do experience complications such as vision loss. Visual impairment due to diabetes may be quite gradual, and the vision may fluctuate from day to day.

If the diabetes has resulted in visual loss, accommodations can be made. Low vision aids may prove useful. The employee's eye care professional may suggest magnification, appropriate lighting, or large print materials. The employee may want to contact a local resource center for people who are blind or visually impaired for a low vision assessment on the job to find useful aids.

In some cases of diabetes, despite one's best efforts at maintaining good blood sugar control, the condition will progress. One's vision loss may be great enough that the person will need to learn alternative ways of performing activities. The employee may need to take a leave of absence to attend a formal program of vocational rehabilitation, where he or she will learn new ways to perform job duties. Vocational rehabilitation training will teach the person how to get around safely (perhaps with a white cane), use adaptive equipment, and perhaps perform job tasks in a somewhat different manner.

Training and Promotion

For most people with diabetes, the employer should have no concerns about training and promotion. If the employee's diabetes has caused significant functional limitations, and if training activities are planned, consult the employee about possible

accommodations needed in the training environment.

These may include:

- regular testing of blood glucose levels and meal breaks
- training materials put into alternative formats such as large print
- having another trainee copy his or her notes if training is conducted in a darkened room

Employers should assume that people with diabetes have the same career goals and aspirations as any other employee. A person's diabetes should play no part in decisions about transfers and promotions. Concentrate only on the appropriateness of the person's skills for a new position and determine if reasonable accommodations are needed. Capitalize on the person's strengths and accommodate limitations to gain greatest productivity from the employee.

Resources

ADA Regional Disability and Business Technical Assistance Center Hotline (800) 949-4232 (voice/TTY).

The Equal Employment Opportunity Commission, 1801 L Street, N.W., Washington, DC 20507, 800-669-4000 (Voice) to reach EEOC field offices; for publications call (800) 800-3302 or (800)-669-EEOC (voice/TTY).

American Diabetes Association, National Service Center, 1660 Duke Street, P.O. Box 25757, Alexandria, VA 22314, (703) 549-1500

Frierson, James G. *Employer's Guide to the Americans with Disabilities Act*, Washington, DC: The Bureau of National Affairs, Inc., 1992.

If visual functioning is affected by diabetes, the employee or employer may wish to contact the local office of the state **Commission (or Services) for the Blind and Visually Impaired**. Look in your telephone directory under state services.

*This publication was developed by Mary B. Dickson, President of Creative Compliance Management, a human resource consulting and training firm whose mission is to maximize human potential in the workplace. She is the author of **Supervising Employees with Disabilities: Beyond ADA Compliance**, published in 1993 by Crisp Publications, Inc. For more information, write to: 13629 SE Grant Court, Portland, OR 97233, or call (503) 255-9318.*

Significant assistance was provided by: Beth Ruml, RN, MSW, CDE (Certified Diabetes Educator), Portland, Oregon

Materials provided by the American Diabetes Association.

For further information contact:

This material was produced by the *Program on Employment and Disability*, School of Industrial and Labor Relations - Extension Division, Cornell University, and funded by a grant from the National Institute on Disability and Rehabilitation Research (grant #H133D10155). It has been reviewed for accuracy by the U.S. Equal Employment Opportunity Commission. However, opinions about the Americans with Disabilities Act (ADA) expressed in this material are those of the author, and do not necessarily reflect the viewpoint of the Equal Employment Opportunity Commission or the publisher. The Commission's interpretations of the ADA are reflected in its ADA regulations (29 CFR Part 1630) and its Technical Assistance Manual for Title I of the Act.

Cornell University is authorized by the National Institute on Disability and Rehabilitation Research (NIDRR) to provide information, materials, and technical assistance to individuals and entities that are covered by the Americans with Disabilities Act (ADA). However, you should be aware that NIDRR is not responsible for enforcement of the ADA. The information, material, and/or technical assistance is intended solely as informal guidance, and are neither a determination of your legal rights or responsibilities under the Act, nor binding on any agency with enforcement responsibility under the ADA.

In addition to serving as a National Materials Development Project on the Employment Provisions of the Americans with Disabilities Act of 1990, the *Program on Employment and Disability* also serves as the training division of the Northeast Disability and Business Technical Assistance Center. This publication is one of a series edited by Susanne M. Bruyère, Ph.D., C.R.C., Director of the ILR Program on Employment and Disability at Cornell University.

OTHER TITLES IN THIS IMPLEMENTING THE ADA SERIES ARE:

- ◆ Working Effectively with Employees who have Sustained a Brain Injury
- ◆ Working Effectively with Persons who have Cognitive Disabilities
- ◆ Employing and Accommodating Workers with Psychiatric Disabilities
- ◆ Working Effectively with People who are Blind or Visually Impaired
- ◆ Working Effectively with People who are Deaf or Hard of Hearing
- ◆ Employment Considerations for People who have Diabetes
- ◆ Working Effectively with Individuals who are HIV-Positive
- ◆ Working Effectively with People with Learning Disabilities
- ◆ Workplace Accommodations for Persons with Musculoskeletal Disorders
- ◆ Employing and Accommodating Individuals with Histories of Alcohol and Drug Abuse
- ◆ Accommodating the Allergic Employee in the Workplace
- ◆ Causes of Poor Indoor Air Quality and What You Can Do About It

For further information about publications such as these, contact the ILR Program on Employment and Disability, Cornell University, 102 ILR Extension, Ithaca, New York 14853-3901; or at 607/255-2906 (Voice), 607/255-2891 (TTY), or 607/255-2763 (Fax).

WORKING EFFECTIVELY WITH PEOPLE WHO ARE BLIND OR VISUALLY IMPAIRED

Program on Employment and Disability
New York State School of Industrial
and Labor Relations
CORNELL UNIVERSITY

What is Blindness or Visual Impairment?

When we think of "blind," we think of total darkness. However, a person may be "legally blind" with either...

- 20/200 vision in both eyes with best correction in the better eye, OR
- a field of vision restricted to 20° or less.

A person whose vision is 20/70 to 20/200 is often referred to as "visually impaired."

Some people are born with no vision or significantly reduced vision. Others lose vision due to accidents or the natural aging process, usually starting in the 40's. For some, vision loss is sudden, while for others, it may be gradual. Some conditions, diabetes, for example, cause vision to fluctuate from day to day.

Many people who have lost significant levels of visual functioning take time out from their careers to learn alternative skills which allow them to live and work effectively.

If a person who is blind or visually impaired applies for a job in your company, the resume and application will indicate experience and skills.

What Types of Jobs Do People Who are Blind Do?

With appropriate training and equipment, people who are blind or visually impaired have the same range of abilities as anyone else. There are no "jobs for blind people." To broaden your thinking, consider that blind people have been successful as ...

artists	machinists
auto mechanics	masseuses
boat builders	mayors
computer	lawyers
programmers	musicians
fashion models	production workers
professional	teachers
story tellers	
word processing specialists	

An employer's perception of inability is often the biggest limitation that people who are blind face.

Accommodating the Person who is Blind or Visually Impaired During the Employee Selection Process

You are trying to determine whether an applicant has the necessary skills, experience, education, or other background to successfully perform the essential functions of the job. This is the same information you need about any applicant to help you make an effective hiring decision.

A person who does not see well enough to read an application form may be discouraged from applying for a job, even if the job itself requires minimal vision.

Ask the applicant how he or she would prefer to meet the requirements of the process. For example, if you require applicants to complete an application form, ask the applicant which would be most convenient...

- Mail the application to the candidate who requests it
- Offer the walk-in applicant an opportunity to take the form, have someone help complete it, and return it by mail or in person
- Offer the services of someone in the office to assist in completing the form.

When you invite a person who is blind or visually impaired to an interview...

- Ask if he or she needs directions if someone is driving
- If the candidate is taking public transportation, indicate which stop is closest, then give directions from the stop.
- Offer assistance from the reception area to your office by asking, "Would you like to take my arm?" If the person needs to, he or she will lightly grasp your arm just above your elbow and will follow one step behind you. Don't insist on helping, and certainly,

don't push the person ahead of you. If the person uses a dog guide, the dog will follow you. Do not pet or distract the dog.

- When you get to your office, place the person's hand on the back of the chair you are offering. Do not push the person into a chair.

When a blind or visually impaired person is in your office...

- Be yourself. Use normal language. It's OK to say:
 - "Do you see what I mean?"
 - "Would you like to take a look at the work area?"
 - "I hope to see you again."

Enhancing Productivity on the Job

Velcro fasteners on protective clothing, hand trucks, and word processors allow us to do things that would otherwise be difficult. These tools enhance our productivity by reasonably accommodating our humanness.

The Americans with Disabilities Act (ADA) requires us to "reasonably accommodate" the limitations imposed by a person's physical or mental disability. Reasonable accommodation is defined as modification or adjustment of a job, employment practice, or the work environment that makes it possible for a qualified person with a disability to be employed. The employer needs to accommodate from the first contact with the person with the disability, during the application process, on the job, in training, on the work site, and when considering promotions and layoffs. If job duties change, new accommodations may need to be made. The ADA requires an employer to accommodate unless doing so would cause an undue hardship. If an employer finds that the cost of an accommodation would impose an undue hardship and no funding is available from another source, an applicant or employee with a disability should be offered the option of paying for the portion of the cost that constitutes an undue hardship, or of providing the accommodation. If

we think of accommodations as "productivity enhancements" similar to others in the workplace, they become part of the cost of doing business.

Types of Productivity Enhancers

The employer and employee should brainstorm and research equipment or job restructuring. The person who requests accommodation has lived, and perhaps worked, with the disability and may know what will enable him or her to perform the essential functions of the job most effectively.

Low tech

Reasonable accommodations do not have to be fancy or expensive.

- Dot of silicon on a knob, switch, or button permits a person to align controls on a machine.
- Wide felt-tip marker may make file folder labels readable.
- Braille labels on the soft drink machine gives the braille user equal access to flavor choice.
- Different size strips of masking tape identify parts bins for production employees.

Consult your employee who is blind or has low vision for other simple solutions.

An employer's perception of inability is often the biggest limitation that people who are blind face.

High tech

Computers can be modified to provide enlarged screen display, synthesized voice, or braille output.

- Optical scanners, also known as "reading machines," scan printed material and "read it" into a computer or voice synthesizer. Some scanners require only adding a card and an external monitor.

• Screen text enlargers use software to enlarge print on a computer screen up to several inches high.

• A tactile representation board allows a person with vision loss to touch a tablet and a synthesized voice reads the word that is at the corresponding point on the screen.

At present, most advanced computer access technology is for DOS-based applications. However, first-generation graphical user interface access shows great promise.

Costs vary considerably, depending on whether the employee can benefit most from text enlargement, voice, or braille output. Software for text enlargement runs around \$500-600, braille printers cost between \$2,000-5,000. Speech output devices range widely, depending on sophistication, from \$800-1,800. Braille scanners and printers run from \$500 - 15,000.

Machines which magnify printed materials (closed circuit televisions) permit a person who has some usable vision to read memos and books and fill out forms. They cost around \$2,500.

When considering costs of accommodations, review the cost of the company's entire computer system overall, the "overall financial resources of the facility..." and the "overall financial resources of the covered entity...." before deciding that the equipment needed to accommodate a blind worker is too expensive. Appropriately setting up any employee's work station helps guarantee maximum productivity.

Tips for On-The-Job Training

Employees who are blind or visually impaired need the same introduction to a job and initial training as sighted colleagues. Provide orientation to the company and the job. Ask the employee whether he or she learns best from verbal instruction or a combination of hands-on, written, and verbal learning.

Allow the person to organize the work area for greatest efficiency, even if it means organizing it differently than in the past. You may find that the new design would make other employees more productive as well.

Make sure that the work station is adequately equipped and that the employee knows where to get replacement supplies. If an outside organization has provided equipment, determine who is responsible for ownership, upkeep, upgrading, or replacement of the equipment.

Performance Management

A supervisor's responsibility is to establish an atmosphere of quality and productivity. Appropriate on-going training of all employees is crucial. Assume that an employee who is blind or visually impaired has the same career aspirations as other employees and provide training, ensuring that materials are accessible to the person's visual limitations.

Supervise as you would for any other employee. Be sure that all employees understand performance expectations. Provide praise and constructive feedback. If a performance problem arises, deal with it openly. Do not automatically assume that it is disability-related. Do not avoid giving feedback. Employees who are blind or visually impaired, as all employees, want to know when they are performing well and when they need to do things differently. Occasionally, a supervisor will not provide feedback until a major problem arises, then dismiss the employee. No employee should be surprised with such actions!

Conduct performance appraisals, using the same criteria as with other employees. If a supervisor has provided feedback throughout the year, an annual performance appraisal should contain no surprises. Review any adaptive equipment to ensure that it is still working well. Determine if it needs upgrading to keep the employee competitive.

Training and Promotion

As an employee grows in the job, provide the same opportunities for learning and taking on new challenges as for other employees. If this means attending out-of-town training, speaking at professional conferences, or training new workers, encourage these activities. Check with the employee to identify any needed accommodations.

Assist the person to plan the next steps in a successful career. Promote qualified people who are blind or visually impaired using the same criteria as promotion for others.

Resources

There are a number of resources that can assist employers and people who are blind or visually impaired with job adaptation. Begin all discussion of accommodation with the employee. If additional information is needed, consult the following organizations:

ADA Regional Disability and Business Technical Assistance Center Hotline -
(800) 949-4232 (Voice/TTY).

The Equal Employment Opportunity Commission, 1801 L Street, N.W., Washington, DC 20507, 800-669-4000 (Voice) to reach EEOC field offices; for publications call (800) 800-3302 or (800)-669-EEOC (voice/TTY).

Services (or Commission) for the Blind (look in local telephone book under state agencies or vocational rehabilitation). Some of these agencies have technology centers where employers can view adaptive equipment.

Vocational Rehabilitation Division (in states that do not have a separate agency for blind people).

American Foundation for the Blind, National Technology Center, 15 West 16th Street, New York, NY 10011, (212) 620-2080 (Mon-Fri, 8:30 AM - 4:30 PM). The Center has a database of 1,200 blind

and visually impaired people who use adaptive equipment in various jobs. Employers are welcome to call for information. The Center also evaluates high-tech products.

Job Accommodation Network (JAN). Call 1-800-526-7234. Employers talk with Human Factors Consultants about an individual with a disability (not limited to blindness or low vision). The consultant will search JAN's database for information related to the functional requirements of the job, the functional limitations of the employee, environmental factors, etc. The search will provide information about similar situations, names and addresses of appropriate resources.

For specific computer adaptations, contact:
Apple Computer, Inc.
Office of Special Education Programs
20525 Mariani Avenue, Cupertino, CA 95014 (408) 996-1010

This publication was developed by Mary B. Dickson, President of Creative Compliance Management, a human resource consulting and training firm whose mission is to maximize human potential in the workplace. She is the author of Supervising Employees with Disabilities: Beyond ADA Compliance, published in 1993 by Crisp Publications, Inc. For further information, write to 13629 SE Grant Court, Portland, OR 97233, or call (503) 255-9318.

Significant assistance was provided by:
• Pam Maxon, Employment Specialist, and Mark Nelson, Technology Specialist, Oregon Commission for the Blind, 535 SE 12th Avenue, Portland, OR 97214, (503) 731-3221.
• Thomas Ciesielski, consultant on blindness and low vision issues, 5225 NE Couch Street, Portland, OR 97213, (503) 236-8479.

For further information contact:

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- ◆ Employing and Accommodating Individuals with Histories of Alcohol and Drug Abuse
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- ◆ Causes of Poor Indoor Air Quality and What You Can Do About It

For further information about publications such as these, contact the ILR Program on Employment and Disability, Cornell University, 102 ILR Extension, Ithaca, New York 14853-3901; or at 607/255-2906 (Voice), 607/255-2891 (TTY), or 607/255-2763 (Fax).

WORKING EFFECTIVELY WITH EMPLOYEES WHO HAVE SUSTAINED A BRAIN INJURY

Program on Employment and Disability
New York State School of Industrial
and Labor Relations
CORNELL UNIVERSITY

What is a Brain Injury?

The brain is a complex organ, the focal point of our capacities to: think; receive, understand language and respond; remember; feel and express emotions; and more. The brain is protected by the bones of the skull and by an intricate system of membranes, fluids and blood vessels. But, like anything else, the brain can be damaged.

Brain injury often results from a trauma to the head and/or brain. Traumatic brain injury can result from a bump to the head such as in a motor vehicle crash. Other conditions that can result in a brain injury include: heart attacks, aneurysms, chemical and drug reactions, lung problems, infections, lack of oxygen to the brain, and a variety of other causes. In most cases, an injury sustained as a result of one of these mechanisms will result in an increased need for support in the following areas: physical capacities (the way we move and manipulate things); behavioral and emotional capacities (the way we act, tolerate, and feel); and cognitive capacities (the way we think and process information).

A brain injury is different from many other disabilities because the onset of the injury can be traumatic and occur suddenly. Everyday people, like you and your family, are susceptible to brain injury at any time. This brain damage can result in permanent, irreversible damage which can effect tasks and things you have typically done in the past with great ease. There is no cure for brain injury and prevention is the best option for minimizing its occurrence.

Implications of the ADA for Individuals Who Have Sustained a Brain Injury

The Americans with Disabilities Act guarantees the rights of individuals with disabilities. The Employment Provisions (Title I) hold interesting implications for individuals who have sustained a traumatic injury such as a brain injury. In most cases, recipients of a brain injury have

held employment prior to their injury. Following a period of rehabilitation to increase capacities often effected by the injury, that employee may desire to return to his/her prior position, be reassigned, or develop his/her career path in other ways. For those individuals who sustain a brain injury prior to establishing a work history, the ADA still holds the same rights of access to their communities and employment.

If a person who has sustained a brain injury applies for a job with your company, reviewing his/her past education and experience will let you know if he/she is minimally qualified. Having previously identified *essential job functions* will also assist you in determining whether or not the individual is qualified, with or without a reasonable accommodation. If an employee sustains a brain injury after having been at work, the same strategies will assist you in determining this person's current qualifications for re-employment. In cases of re-employment, involvement of the employer in the rehabilitation process is critical. You will be able to play a large role, given the employee permits your involvement, in assisting the rehabilitation team in knowing exactly what that employee was like prior to his/her injury, what his/her job entailed, and what *essential job functions* he/she will be required to perform upon returning.

Accommodating an Applicant or Employee Who Has Sustained a Brain Injury

Employee Selection Process:

As in all applicant cases, your main priority, regardless of disability, should be to determine whether an applicant has the necessary skills, experience, education, or other background to successfully perform the essential functions of the job. Your first step is going to be to determine what are the components in applying for, obtaining, maintaining a job, and being promoted within your company. Once you have clearly identified the different human resources activities an applicant or employee must go through, you will be

able to determine possible accommodations along the way which may make the process more accessible for a wider variety of applicants/employees.

However, the reasonable accommodation obligation applies to an individual as the need arises. The ADA does not require you, as an employer, to make general adjustments and modifications for a wide variety of employment situations.

When you advertise an open position, **make sure the qualifications required and application directions are stated clearly and concisely.** This will assist an individual who may have cognitive support needs in processing the information, allowing him/her to make a clear decision as to whether or not s/he may minimally qualify for the job.

The first *rule of thumb* when attempting to determine ways to increase the accessibility of human resources policies and practices within your company and accommodate an individual who has sustained a brain injury, is to **recognize that not all brain injuries result in the same support needs.**

*For example...*one individual may have no difficulty reading an application form, while another may have a vision problem resulting from his/her brain injury which affects his/her ability to read.

Ask the individual how s/he would prefer to meet the requirements of a given process. For example, if a right-handed applicant has limited use of his/her right arm as a result of the brain injury some strategies may include:

- Allow the person to take the application home and have assistance filling it out;
- Mail the application to the candidate who requests it;
- Offer the services of someone in the office to assist in completing it.

Some effective human resources strategies to use when interviewing with an applicant who has sustained a brain injury include:

- Give clear concise directions;

- Ask if s/he has an aide or assistant who might make the interview process more comfortable and aid him/her in presenting his/her skills and qualifications for the job;
- Follow-up spoken communications (phone calls, dialogues, etc...) with written communication to assist a person who may have memory support needs (i.e. directions, appointment times, etc...);
- Make sure your interviewing site is accessible to aid the individual who may have physical support needs resulting from his/her injury.

When you are conducting an interview be yourself. Disability does not mean inability. Treat the applicant who has sustained a brain injury as you would any other applicant. To increase your comfort level and accommodate the potential support needs of the applicant who has sustained a brain injury be mindful of:

- Speaking clearly and concisely;
- Repeating a statement that an applicant has told you is unclear or unintelligible;
- Decreasing distractors in the room (i.e. phone calls, interruptions, etc...);
- Doing a walk-through or a tour to make sure it is accessible, prior to interview;
- Decreasing the number of introductions made or reassure the applicant that s/he will meet quite a few people and it may take some time to get to know them all;
- When explaining tasks or jobs, breaking down each into steps which may be easier to remember or sequence.

(Remember, not all applicants will need these accommodations; don't forget to ask the applicant what may assist him/her).

Enhancing Productivity on the Job:

Why do we use a chair to reach dishes on a high shelf? Why do we use automatic pencil sharpeners? Why do we use ergonomically designed office chairs?

Simply put, these adaptations make a task easier and may save time. These are

examples of simple accommodations we make to be more productive and ease our workload. The ADA asks employers to *reasonably accommodate* the limitations imposed by a disability. Reasonable accommodation is defined as modification or adaptation of a job, employment practice, or work environment that makes it possible for a qualified person with a disability to be employed. The law states that employers **must make accommodations from the first point of contact with a person with a disability** including: the application screening process; on the job; in training; on the worksite; and when considering promotions and layoffs. If job duties change, new accommodations may need to be made. The ADA requires an employer to accommodate unless doing so would cause an *undue hardship*.

If an employer finds that the cost of an accommodation would impose an undue hardship and no funding is available from another source, an applicant or employee with a disability should be offered the option of paying for the portion of the cost that constitutes an undue hardship, or of providing the accommodation.

Selecting an Accommodation:

The employee candidate who requests an accommodation has lived and perhaps worked while having the disability. He/she may already have identified what accommodations work best for him/her. **Given that support needs are individualized based on the severity of a brain injury, so must the accommodation.** The process of identifying and selecting an accommodation should be a dialogue between the employee and the employer. The accommodation may be able to be provided using easily identified supports (low tech) or may require the use of more intensified and expensive supports (high tech).

Identifying an accommodation for an individual who has sustained a brain injury could potentially include a variety of support strategies including: memory log

Working Effectively with Employees Who Have Sustained a Brain Injury

books; wheelchair-accessible facilities; job sharing or modified shortened work schedules; job checklists and cues; tools to assist the person in tracking while reading such as a ruler or piece of paper with a window cut in it; smaller job steps to improve sequencing; raised desks or tables to allow for a wheelchair; Teletype (TTY) or Text Telephone (TT) if the person has difficulty with speech or hearing; ramps; handrails; computer keyboard guards; to name only a few accommodations.

Tips for On-The-Job Training:

All employees, regardless of disability, need the same introduction and orientation to a job and initial training. Determining the learning style of any new employee is a good human resources practice which maximizes inservicing and training provided. Ask the employee whether s/he learns best from strictly verbal instruction, or a combination involving hands-on, written, and verbal instruction.

Any new employee has his/her own unique way of setting up a work station or organizing job tasks and supplies. Allowing the employee with a brain injury this flexibility can promote increased performance as long as job quality and quantity is not negatively affected.

In some cases, individuals with more severe disabilities may be represented by a rehabilitation agency or employment program which provides specialized support and technical assistance to employers surrounding the employment of people with disabilities. Although these services can benefit the employer, they should not take the place of internal training, orientation, inservicing, and promotional strategies and techniques utilized by your company. The key to successful on-the-job training is integrating, investing, and involving the new employee to the greatest degree possible without stigmatizing the person who may have sustained a brain injury or any other disability.

Resources

There are a number of resources that can assist employers and people who have sustained a brain injury. It is important to remember to begin all discussion of accommodation with the employee. If additional information is needed, consult the following organizations:

ADA Regional Disability and Business Technical Assistance Center Hotline - (800) 949-4232 (voice/TTY).

The Equal Employment Opportunity Commission, 1801 L Street, N.W., Washington, DC 20507, 800-669-4000 (Voice) to reach EEOC field offices; for publications call (800) 800-3302 or (800)-669-EEOC (voice/TTY).

Ability Magazine / Jobs Information Business Service, 800/453-JOBS, 11682 Langley, Irvine, California 92714

Provides an electronic "classified" system which allows employers to recruit qualified individuals with disabilities and people with disabilities to locate employment opportunities. Through magazine, provides information on locating qualified readers, interpreters, personal assistants and assistive devices, and overcoming architectural, communications, and transportation barriers, performing job analysis, job modification, and job restructuring.

Association for Persons in Supported Employment (APSE), 800/282-3655, 5001 West Broad Street, Suite 34, Richmond, Virginia 23230

International association which can provide resources and information on how to utilize subsidized "supported employment" programs. Association also provides referral to state chapters which can then provide referral to local supported employment programs in your locality.

Job Accommodation Network (JAN), 800/526-7234, West Virginia University, PO Box 6080, Morgantown, West Virginia 26506-6080

Employers talk with Human Factors Consultants about an individual with a disability (not limited to brain injury). The consultant will search JAN's database for information related to the functional requirements of the job, the functional limitations of the employee, environmental factors, etc. The search will provide information about similar situations, names and addresses of appropriate resources.

National Head Injury Foundation, Inc., 202/296-6443, 1776 Massachusetts Avenue, NW, Suite 100, Washington, DC 20036-1904.

Provides informational services and resources on traumatic brain injury. Offers employment-related publications on vocational rehabilitation, job seeking skills, job placement, return-to-work and employment issues, and adaptive work behaviors for victims of brain injury. Local associations can be accessed for local information.

State Vocational Rehabilitation Office

State agency which provides vocational rehabilitation services to individuals with disabilities. Services can include: counseling, advocacy, job training, job placements, and a variety of additional support services including continuing, adult and post-secondary education. For the Office of Vocational Rehabilitation Services in your State, consult a phone directory.

This publication was developed by Thomas P. Golden, M.S., Coordinator for Community Rehabilitation Programs and Supported Employment Personnel Training at the Program on Employment and Disability at Cornell University, Ithaca, New York, (607) 255-7727.

For further information contact:

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WORKPLACE ACCOMMODATIONS FOR PERSONS WITH MUSCULO- SKELETAL DISORDERS

Program on Employment and Disability
New York State School of Industrial
and Labor Relations
CORNELL UNIVERSITY

Any disease, injury, or significant impairment to muscles, bones, joints, and supporting connective (soft) tissues is considered to be a musculoskeletal disorder. Approximately 14 million Americans have musculoskeletal disorders, which are the leading cause of disability among individuals of working age (18 to 64 years of age). The total cost to society of musculoskeletal disorders exceeds \$65 billion annually, of which \$27.5 billion alone is for musculoskeletal injuries.

Many people with musculoskeletal disorders are considered individuals with disabilities under the Americans with Disabilities Act (ADA). An individual with a disability is a person who: has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. Whether a person's impairment substantially limits a major life activity depends on its nature and severity, how long it will last or is expected to last, and its permanent or long-term impact or expected impact.

Musculoskeletal disorders vary greatly in severity and degree of permanence. The provisions of the Americans with Disabilities Act of 1990 (ADA) do not apply to every musculoskeletal disorder. The ADA does not cover physical problems that are relatively minimal in nature and severity (e.g., a sprained toe or pulled muscle) or will heal in a short time.

Job Application Process

Before the passage of the ADA, some employers attempted to screen out persons with disabilities during the hiring process out of fear that these people represented an undue safety and workers' compensation risk. Employers used preplacement medical examinations to identify the particular disability the applicant had and then used this information to make a hiring decision. The trouble with this approach was that the candidate had no chance to show the employer whether he could actually perform the job.

The employment provisions of the ADA (Title I) protect all qualified individuals with disabilities from discrimination in all employment decisions. Specifically, employers may not inquire about an applicant's medical history before making a conditional offer of employment. After the job offer is made, an employer may inquire about a prospective employee's medical history or require medical examinations as long as this policy is applied consistently to all entering employees in a particular job category. All medical information collected is confidential and must be kept in a separate locked file. The employer cannot assume that the applicant is limited in performing the job's essential functions merely because he has a disability. If the postoffer inquiry shows that the prospective employee will be unable to perform the job without posing a significant risk of harm to himself or others, the employer may refuse to hire the

applicant if the risk cannot be reduced or eliminated by *reasonable accommodation*.

What Is Reasonable Accommodation?

Reasonable accommodation is the critical concept in the employment provisions (Title I) of the ADA. It is any modification or adjustment to a job, employment practice, or work environment that enables a qualified individual with a disability to participate in and enjoy equal employment opportunity. The employer's obligation to provide a reasonable accommodation applies to all aspects of employment; this duty is ongoing and may arise anytime a person's disability or job changes, unless the accommodation causes an undue hardship to the employer. A qualified applicant or employee cannot be denied an employment opportunity because of the need to provide reasonable accommodation.

According to the ADA, if the cost of an accommodation would impose an undue hardship on the employer, the individual with the disability should be given the opportunity to provide the accommodation or to pay the portion of the cost that would otherwise constitute an undue hardship for the employer.

What Types of Accommodations Should Be Considered?

Workplace changes for people with musculoskeletal disabilities fall into two general categories: engineering accommodations and administrative accommodations.

Engineering accommodations include changes to the physical

- work environment such as
- redesign of employees' workstations
 - redesign of equipment or tools (e.g., lifting aids) that employees use
 - access to the building in which employees work

Administrative accommodations include changes in the manner in which work is performed such as

- assignment of other employees to assist disabled workers
- reassignment of disabled employees to alternate vacant positions
- flexibility of the work schedule

Employers may wish to consult with technical experts such as ergonomists and physical therapists regarding workplace accommodations. They should not, however, exclude employees with musculoskeletal disorders from the decision-making process concerning their own accommodations. Allowing an individual with a disability to help set up her workstation or determine her style of work will assure more effective selection of reasonable accommodations and help promote increased job performance and respect for the employer.

Returning the Work-Disabled Employee to the Job

Providing reasonable accommodations to individuals with disabilities applies not only to the hiring process but also to employees who are returning to work after a workers' compensation situation. The individual with a disability is expected to perform the essential functions of the job. These functions may be considered essential for several reasons: (i)

the position exists so that function can be performed; (ii) a limited number of employees are available among whom the performance of the job function can be distributed; (iii) the function is highly specialized so that the incumbent in the position is hired for her expertise or ability to perform it. The individual with a disability does not need to be able to perform the nonessential functions of the job. If the employee is otherwise qualified to perform a job but requires a reasonable accommodation to accomplish an essential job function, she cannot be discriminated against in being hired or in returning to work. Employers are not required to hire or retain individuals who pose a direct threat to the health and safety of himself/herself or others. The employer has an obligation to prove that a direct threat exists and that the threat cannot be eliminated or reduced to an acceptable level through reasonable accommodation.

Maximizing Employee Potential for Success

As with any significant change in the work environment, making job site accommodations for a disabled employee may have implications for effective labor relations. For example, an assembly-line worker with a low-back disability is reintroduced into the workplace following a job-related injury. He is able to return to his job because of modifications to his workstation that ease the physical demands of the job and help to control his symptoms. Other employees with the same job title or union seniority, however, may want similar changes to their work stations to make their jobs easier.

The employer may feel this is a no-win situation. Not only does she have to pay for the disabled employee's accommodation, she also has to face the backlash from other workers who consider the accommodations a form of favoritism to which they are not entitled. But making this type of accommodation for the entire workforce would be cost prohibitive, and the employer is not required to accommodate the wishes of the disgruntled able-bodied workers.

Able-bodied employees must understand that the accommodation enables the employee with a disability to perform the essential functions of his job. If accommodations are viewed in this context, there is no appropriate comparison between providing an accommodation and making adjustments for able-bodied workers so as to make their jobs easier. One is required by law, the other is not.

If the dialogue between labor and management concerning the need for accommodating the individual with a disability is handled properly, other employees will come to understand that different people can perform the same job in different ways. By working closely with labor to ease the assimilation of individuals with disabilities back into the workplace, employers can establish mutual feelings of understanding and a desire to work together to resolve future conflicts. Employers may wish to consult experts in the field of labor relations and the ADA to learn how to handle these situations.

Beyond the ADA

Understandably, employers worry about the impact of the ADA on the cost of doing business. In most cases, however, accommodating a worker costs less than disability compensation does. Employers, in fact, have much to gain by investing in ergonomic redesigns to the entire workplace that go beyond the intent of the ADA. It has been estimated, for example, that the proper design of manual handling tasks can reduce by up to one-third the incidence of industrial back disorders. In fulfilling the requirements of the ADA for employment nondiscrimination for individuals with disabilities, the employment setting is encouraged to refine its protocol for determining essential functions of jobs; matching individuals to jobs, emphasizing employee skills and abilities, not limitations; and design work stations and environments that minimize the likelihood of injury. These are outcomes that both employers and employees can benefit from.

Resources

If you have more specific questions about the ADA or musculoskeletal disorders, please consult the resources listed below.

ADA Regional Disability and Business Technical Assistance Center: 1-800-949-4232 (voice/TTY)

Equal Employment Opportunity Commission: 1801 L Street, NW, Washington, D.C. 20507, 800-669-4000 (voice) to reach EEOC field offices; for publications call 800-800-3302 or 800-669-EEOC (voice/TTY).

Job Accommodation Network (JAN), West Virginia University, P.O. Box 6080, Morgantown, West Virginia 26506-6080, telephone 800-526-7234

University of Vermont, Vermont Rehabilitation Engineering Center, McClure Musculoskeletal Research Center, One South Prospect Street, Burlington, Vermont 05401, telephone 800-527-7320, from within Vermont telephone 802-656-4582

Human Factors and Ergonomics Society, P.O. Box 1309, Santa Monica, California 90406, telephone 310-394-1811, fax 310-394-2410 (Fax)

American Physical Therapy Association, Orthopedic Section, 505 King Street, Suite 103, Lacross, Wisconsin 54601-4062, telephone 608-784-0910

University of Rochester, Center for Occupational Rehabilitation, 2337 Clinton Avenue South, Rochester, New York 14618, telephone 716-275-9675

McClure Musculoskeletal Research Center, Stafford Hall, University of Vermont, Burlington, Vermont 05405, telephone 802-656-2250

This publication was developed by Frank N. Morosky, M.S., P.T., a physical therapist and specialist in industrial rehabilitation. He is currently coordinator of the Cornell University Back Injury Prevention Program, Ithaca, New York.

For further information contact:

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EMPLOYING AND ACCOMMODATING WORKERS WITH PSYCHIATRIC DISABILITIES

Program on Employment and Disability
New York State School of Industrial
and Labor Relations
CORNELL UNIVERSITY

The ADA and Individuals with Psychiatric Disabilities

Some people are surprised to learn that the ADA covers individuals with psychiatric, as well as physical, disabilities. This is consistent with Sections 503 and 504 of the Rehabilitation Act of 1973, the federal nondiscrimination statute which preceded the ADA.

ADA coverage is limited to individuals with "physical or mental impairments" that "substantially limit one or more major life activities." The ADA also protects from discrimination individuals with a record of a disability and individuals regarded as having a disability. Thus individuals who do not currently have a physical or mental impairment that substantially limits one or more major life activities would still fall within the scope of ADA coverage if a covered entity discriminates against them based on a record of a disability or if they are regarded as being disabled.

Individuals with psychiatric diagnoses such as major depression, bipolar disorder (formerly called manic-depressive illness), and schizophrenia may be covered, depending on how the condition affects their functioning. Individuals with other psychiatric conditions (such as anxiety, personality, dissociative, or post-traumatic stress disorders) may also be included in the ADA definition.

The ADA does not usually cover impairments that do not last for a long period of time and that have little or no long term impact on the individual. For example, individuals with mild or short-term mental health problems usually will not meet the ADA's definition of disability.

There is much debate about preferred terminology for referring to individuals with psychiatric disabilities. Some

commonly used terms are "the mentally ill," "person with a psychiatric disability," "mental health consumer," and "psychiatric survivor." However, we will use the term "person with a psychiatric disability" here because it emphasizes work functioning rather than medical symptoms or social identity.

Popular Misconceptions About People with Psychiatric Disabilities

There are many prevalent myths about individuals with psychiatric disabilities that reinforce negative, inaccurate stereotypes.

Myth #1: Mental illness is uncommon. The most recent estimates by the federal government indicate that 3.3 million American adults -- approximately 2 percent -- have a serious mental illness.

Myth #2: Mental illness is the same as mental retardation. The two are distinct disorders. A diagnosis of mental retardation is chiefly characterized by limitations in intellectual functioning, as well as difficulties with certain skills of daily life. By definition, mental retardation begins before the age of 18.

In contrast, the intellectual functioning of persons with psychiatric disabilities varies as it does across the general population. The symptoms of mental illness may include emotional disturbances, disordered thinking, or perceptual difficulties.

Mental illness may develop at any age, from childhood through later life. Bipolar disorder and schizophrenia have a high rate of onset during early adulthood. Therefore, many individuals with psychiatric disabilities enter or complete college before first experiencing symptoms.

Myth #3: People with psychiatric disabilities are likely to be violent.

Upon learning that an applicant has a history of psychiatric treatment, some employers may expect that the individual is likely to become violent. This myth is reinforced by portrayals of people with mental illnesses in movies, television, and the news media as frequently and randomly violent. According to a recent scholarly review of research literature "none of the data give any support to the sensationalized caricature of the mentally disordered served up by the media." ¹

Myth #4: Recovery from mental illness is not possible.

For many decades, people with mental illnesses were separated from the rest of society through institutionalization in mental hospitals. Mental illness was thought to be permanent and untreatable.

Public policies began shifting in the late 1950's and early 1960's as we realized that hundreds of thousands of American citizens were being confined unnecessarily. Medications were discovered that helped to alleviate the symptoms of mental illness, and there was a gradual evolution toward the provision of treatment and rehabilitation services in the community. Long-term studies have shown that the majority of people with mental illnesses show genuine improvement over time and lead stable, productive lives.

The success of prominent figures with mental illnesses has helped to inform the public that healing and recovery are indeed possible. Two well-known mental health advocates are Patty Duke (who frequently speaks about her own experience with bipolar disorder) and William Styron (who wrote the autobiographical book Darkness Visible about living with major depression).

Myth #5: People with psychiatric disabilities can't tolerate stress on the job.

This myth over-simplifies the rather complex human response to stress. People with a variety of medical conditions - including cardiovascular disease, multiple sclerosis, and psychiatric disorders - may find their symptoms exacerbated by high levels of stress. But the sources of personal and job-related stress vary substantially from individual to individual. Some people find an unstructured schedule to be very stressful, while others struggle with a regimented work flow. Some people thrive on public visibility or high levels of social contact, while others need solitude to focus and be productive. Of course, workers with psychiatric disabilities vary, too, in their responses to stressors on the job.

All jobs are stressful in some regard. Productivity is maximized when there is a good match between the employee's needs and his or her working conditions - whether or not the individual has a psychiatric disability.

How will employers know if current workers or applicants have psychiatric disabilities?

Psychiatric disabilities are generally not apparent. Further, the ADA prohibits employers from asking applicants if they have psychiatric disabilities before making a job offer. Examples of pre-employment questions not allowed under the ADA include the following: Have you ever been hospitalized? Have you had a major illness in the last five years? Have you ever been treated by a psychiatrist or psychologist? How many days were you absent from work because of illness last year? Are you taking any prescribed drugs?

In order to determine whether applicants are qualified, the screening process should clarify the essential functions of the job, then seek evidence that the potential employee has the

needed skills, work experience, education or other qualifications.

Given these guidelines, employers are unlikely to know if an applicant has a psychiatric disability unless he or she chooses to discuss it. For example, a worker might decide to disclose that he/she has a disability in order to request a workplace accommodation. But most workers with psychiatric disabilities don't require accommodations. Applicants and employees are often deterred from discussing their disabilities with employers by the very severe stigma associated with psychiatric disorders in our society. Disclosure is a personal decision on the part of the worker that involves many factors including trust, comfort with others in the workplace, job security, and the perceived open-mindedness and support of the immediate supervisor.

How might psychiatric disabilities affect an individual's functioning in the work place?

It is impossible to generalize about the characteristics of all people with psychiatric disabilities. When asked how their mental illness affects their functioning on the job, some workers with psychiatric disabilities cite difficulty maintaining concentration. Workers who take medications to control their psychiatric symptoms may experience side effects such as hand tremors, excessive thirst, or blurred vision. Some individuals report difficulty in focusing on multiple tasks simultaneously, particularly amid noise and distractions.

Of course, the strengths and weaknesses of each applicant or employee must be assessed individually, regardless of the presence of a disability. The worker's ability to perform a job will depend on his or her work experience, training, and skills, not merely the presence or absence of a psychiatric diagnosis.

Employing and Accommodating Workers with Psychiatric Disabilities

What types of accommodations might be helpful for workers with psychiatric disabilities?

Good management practices will produce many of the workplace accommodations needed by people with psychiatric disabilities. Like all employees, workers with psychiatric disabilities may benefit from supervisors who:

- approach each employee with an open mind about his/her strengths and abilities,
- clearly delineate expectations for performance,
- deliver positive feedback along with criticisms of performance in a timely and constructive fashion,
- are available regularly during the workday for consultation with employees,
- demonstrate flexibility and fairness in administering policies and work assignments.

In addition to high quality supervision, some workers with psychiatric disabilities may benefit from one or more of the following accommodations:

- schedules which incorporate flex-time,
- part-time positions or job sharing,
- time off for scheduled medical appointments or support groups,
- the use of break time according to individual needs rather than a fixed schedule,
- physical arrangements (such as room partitions or an enclosed office space) to reduce noise or visual distractions,
- extending additional leave to allow a worker to keep his or her job after a hospitalization,
- allowing workers to phone supportive friends, family members, or professionals during the work day,
- joint meetings between the employer, supervisor, and job coach or other employment service provider.

Conclusion

One of the ADA's primary goals is to promote equal employment opportunity for people with disabilities. Achieving this goal requires employers to move beyond stereotypes and to assess the qualifications and performance of workers with psychiatric disabilities on an individual basis. Employees with psychiatric disabilities can bring unique skills and sensitivities that significantly add to the quality and diversity of the workplace.

Where can I obtain additional information?

There are a number of resource organizations which can provide helpful information on accommodations and other considerations in working with individuals with psychiatric disabilities. Some of these are (in alphabetical order):

ADA Regional Disability and Business Technical Assistance Center Hotline, (800) 949-4232 (voice/TTY).

Bazelon Center for Mental Health Law, 1101 15th Street, NW, Suite 1212, Washington, DC 20005, (202) 467-5730.

Center for Mental Health Services, Community Support Program, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-3653.

Center for Psychiatric Rehabilitation, Boston University, 730 Commonwealth Avenue, Boston, MA 02215, (617) 353-3550.

Equal Employment Opportunity Commission, 1801 L Street, N.W., Washington, DC, 20507, 800-669-4000 (Voice) to reach EEOC field offices; for publications call (800) 800-3302 or (800)-669-EEOC (voice/TTY).

Job Accommodation Network (JAN), PO Box 6080, Morgantown, WV 26506-6080, (800) ADA-WORK (voice/TTY).

National Alliance for the Mentally Ill, 2101 Wilson Boulevard, Suite 302, Arlington, VA 22201, (703) 524-7600.

National Empowerment Center, 130 Parker Street, Lawrence, MA 01843, (800) POWER-2-U.

National Mental Health Association, 1021 Prince Street, Alexandria, VA 22314, (703) 684-7722.

President's Committee on Employment of People with Disabilities, 1331 F Street, NW, Washington, DC 20004, (202) 376-6200 (voice), (202) 376-6205 (TTY).

Thresholds National Research and Training Center on Rehabilitation and Mental Illness, 2001 North Clayburn Avenue, Suite 302, Chicago, IL 60614, (312) 348-5522.

Washington Business Group on Health, Employer's Resource Center on the ADA and Workers with Psychiatric Disabilities, 777 North Capitol Street, NW, Suite 800, Washington, DC 20002, (202) 408-9320 (voice), (202) 408-9333 (TTY).

1 Monahan, John. "Mental Disorder and Violent Behavior: Perceptions and Evidence". *American Psychologist*. April 1992, Volume 47, Number 4, p. 519.

This publication was produced by Laura L. Mancuso, M.S., C.R.C., 946 West Campus Lane, Goleta, CA 93117, (805) 685-9077.

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- ◆ Workplace Accommodations for Persons with Musculoskeletal Disorders
- ◆ Employing and Accommodating Individuals with Histories of Alcohol and Drug Abuse
- ◆ Accommodating the Allergic Employee in the Workplace
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ACCOMMODATING THE ALLERGIC EMPLOYEE IN THE WORKPLACE

Program on Employment and Disability
New York State School of Industrial
and Labor Relations
CORNELL UNIVERSITY

Defining the Allergic Employee

An allergy is an overreaction of the immune system to a substance. The function of the immune system is to recognize and eliminate agents that are harmful to the host. When the immune system is functioning properly, the foreign agents are eliminated quickly and efficiently. Occasionally the immune system responds adversely to environmental agents, resulting in an allergic reaction. When the immune system hyperreacts, the response is out of proportion to, and more harmful than, the initial threat of the substance.

The details of all kinds of allergic reactions will not be discussed here, but one type occurs when antibodies bind to the environmental agent or antigen which has been taken into the body or makes contact with the skin or mucous membranes. This binding reaction causes chemicals from the body to be released which produce dilation of the blood vessels, the release of fluid causing swelling and inflammation. The main targets of this type of reaction are the skin (producing urticaria and atopic dermatitis), the respiratory system (producing rhinitis and asthma), the vasculature (causing anaphylactic shock), and the gastrointestinal tract (causing food allergies). These responses are called immediate hypersensitivity because they tend to occur quickly after rechallenge with an antigen to which the individual has been sensitized. Another type of allergic reaction, called delayed hypersensitivity, does not involve antibodies, but produces an inflammatory reaction by the action of specialized types of white blood cells. The target for this type of reaction can be almost any organ, but the classic example is the skin as in the case of contact dermatitis.

Anaphylactic shock is an allergic condition in which the antigen-antibody reaction takes place all through the body immediately after an antigen to which the person is sensitive has entered the circulatory system. If the reaction takes place in direct contact with the walls of the blood vessels or the muscles of the heart, damage to these tissues can result directly. The reaction causes the release of body chemicals which make the arteries and veins dilate, greatly reducing blood pressure in the arteries. The permeability of the capillaries increases causing a rapid loss of fluid from the blood and into the tissue spaces. The result of the great loss in blood returning via the veins to the heart is often so drastic that the resulting shock can produce death within minutes.

Hypersensitivity, or allergy, is not due to an alteration of the immune system by a foreign substance, but is an inappropriate activation of the immune system. So an allergy is a normal immune response with deleterious consequences, such as allergic rhinitis, hay fever, or contact sensitivity. In some of these cases, the response can be the source of tissue damage, so that suppressing certain immune reactions actually reduces tissue injury. Once sensitized, the affected individual becomes more sensitive to low concentrations.

Allergies to Workplace Exposures

Hypersensitivity from environmental exposures in the workplace can produce respiratory disorders, skin disorders, or anaphylactic shock. Numerous inhalants cause immune-mediated respiratory disorders, including some types of bronchial asthma, hypersensitivity pneumonitis, allergic rhinitis, and bronchopulmonary aspergillosis. Immune system involvement has also been seen for silicosis, asbestosis, coalworkers' pneumoconiosis, and possibly byssinosis. Allergic reactions of the

skin include allergic contact dermatitis (red rashes, swelling, itching, and sometimes blisters).

Although almost anyone can develop an allergy to a given substance, a distinct segment (15 - 20 percent) of the population is clinically atopic; that is, individuals who are unusually reactive to a variety of substances. Persons could have genetic differences that might predispose them to allergies to certain environmental and occupational antigens. However, it is very frequent that the individual who develops occupational asthma is nonatopic. This person may not get the symptoms at work, but may have a delayed response in the evening or at night. Characteristically, the individual develops the symptoms of asthma, which are wheezing, shortness of breath, cough, and sometimes chest tightness. The symptoms improve away from work, but get worse upon return to work.

Identifying the Sensitizer in the Work Environment

There is an enormous range of potential allergens in the workplace. Documented case histories involve a large number of substances, even though the numbers of people affected by any one substance may be very small. Below are listed some industrial chemicals which have been documented as producing allergic reactions. Additional information is available on the allergens which have been shown to be related to specific occupations or exposures.

Some common industrial chemicals associated with occupational asthma include:

- Platinum salts
- Nickel salts
- Pyrethrum (used as the bases of some insecticides)
- Diisocyanates (such as toluene diisocyanate or TDI)
- Ethylenediamine

- Phthalic anhydrides
- Colophony resins (derived from pine resin)
- Exotic wood dusts

Some common contact sensitizers of the skin include:

Poison ivy	European primrose
Benzocaine	Epoxy Resins
Mercaptan	Picric acid derivatives
Ethylenediamine	Formaldehyde
Thimerosal	Beryllium
Nickel	Cadmium
Chromates	Silver
Zirconium	Cutting oils
Paraphenylenediamine	
Carbon-iodine hydrocarbon compounds	

Occupational Exposure Limits and the Sensitive Worker

It would be most helpful in solving a workplace exposure problem if the specific allergen could be identified and the nature and extent of the exposure documented so that it could be addressed or reduced. Immunotoxicologists have identified many substances that have demonstrable immunotoxic effects in laboratory animals, and in a few instances, the effects of these substances have been observed in humans as well. Occupational experience has provided some evidence of substances' inadvertent immunotoxic effects in humans. For the most part, however, data are sparse on the effects of general exposure to immunotoxicants in the environment, although the scientific community does recognize that the immune system is an important target organ for toxicity.

Several Federal activities are designed to enhance public awareness of the hazards of toxic substances, including those which affect the immune system. OSHA's Hazard Communication Standards (29 CFR 1910.1200) and Laboratory Standard (29 CFR 1910.1450) require that workers be provided with information about the known health hazards of their jobs. However, since so little information is

available regarding immunotoxic effects, and since the Standards cannot be used to compel testing, the Standards do little at present to protect workers from potential allergens. OSHA does have a substance-specific standard dealing with formaldehyde (29 CFR 1910.1048).

OSHA's occupational exposure limit regulations were recently rolled back to the 1971 limits due to a court decision. Newer limits which had been set in 1989 on some chemicals to prevent allergic reactions have, as a result, been either eliminated or reverted to the older limits. Only a few potential sensitizers are presently regulated by OSHA:

- Cobalt metal, dust, and fume (*Respiratory System*)
- Formaldehyde (*Skin and Respiratory System*)
- Isophorone Diisocyanate (*Skin and Respiratory System*)
- Phenyl Glycidyl Ether (*Skin*)
- Picric Acid (*Skin*)
- Toluene-2,4-Diisocyanate (*Respiratory System*)

Most scientists agree that the lack of human test data should not preclude efforts to control human exposures to suspected immunotoxicants, but the absence of data will ensure continued disagreement about suitable means and levels of control. It is important to note that in regulating exposure to potential allergens, the nature of the dose is significant: to prevent adverse health effects, should the exposure be handled as an eight-hour time-weighted-average dose (such as a workshift) or as a peak dose or as an intermittent high dose? Then the occupational exposure should be controlled accordingly. Some information indicates that perhaps high intermittent doses can result in sensitization or can affect individuals who are sensitive. There is some evidence to indicate that the exposure may have been a one-time event to produce sensitization. Another problem with setting exposure limits for an immune system-related response is the

challenge of developing an acceptable exposure limit for an event that does not appear to either have a threshold or fit the standard dose-response relationship.

Accommodating the Allergic Employee

Once an employer learns an applicant or employee is allergic, and in need of an accommodation, the employer may be required by the Americans with Disabilities Act to provide the needed accommodation. The allergic worker may be able to respond to low levels of exposure, levels which may be lower than the relevant occupational exposure limits set by OSHA or recommended by agencies such as NIOSH or organizations such as the ACGIH. Accommodating the allergic employee would therefore generally involve reducing exposure further by providing specific protection for the sensitive individual, such as additional protective equipment which the average (nonallergic) worker probably wouldn't need. Protective equipment could involve the use of respirators for respiratory protection or protective clothing (such as gloves) or barrier creams for skin protection. The use of respirators would involve employer compliance with OSHA's Respiratory Protection Standard (29 CFR 1910.134) including the use of a physical to determine whether a worker could wear a respirator. Battery-powered respirators may enable those with pulmonary or cardiovascular problems to still use a respirator. Respirators made of silicone may enable someone to wear a respirator who has a rubber allergy (such as an allergy to mercaptobenzothiazole).

Exposure could be reduced by the use of engineering controls such as better or more efficient use of ventilation to dilute or remove exposure; improved equipment design to reduce the production of vapors, mists, and splashes; or enclosures of equipment or processes to contain or collect any emissions. Air cleaning equipment

could be used to reduce the air concentration of a potential allergen in the work area of a sensitive individual. Exposure may be reduced by scheduling changes which do not place the sensitive worker in a work area at the same time that a potential allergen is being used. (For example, avoiding the use of products such as cleaning chemicals or pesticides or paints in the sensitive person's office or work area.)

One important accommodation would include having personnel aware of what to do or who to call (such as emergency telephone numbers) if the allergic person experiences an adverse reaction such as an asthmatic attack or anaphylactic shock. The allergic person's physician should be consulted as to what such measures should include (such as having antihistamines or bronchodilators available for emergency use).

However, these are some other alternatives to consider which could reduce or altogether remove the potential for exposure to an allergen: product substitution, the use of an alternative formulation for the chemical or material being used, eliminates containing or using the potential allergen. (For example, to avoid asthma from inhalation of persulfate boosters in hair bleaches, a hairdresser could use a bleach with a non-persulfate booster such as sodium perborate, sodium percarbonate, or magnesium carbonate.) Process substitution reduces or eliminates exposure to an allergen by the use of an alternative method for doing a job. (For example, to avoid skin or respiratory allergies from the use of cold sterilization with formaldehyde solutions, sterilization using steam or ultraviolet light could be considered.) Both product and process substitution may be well worth investigating because they may have advantages to the employer in the areas of cost savings on hazardous waste disposal, less potential liability for handling or storage of hazardous materials, reduced need for extra or special ventilation or protective

materials, reduced need for extra or special ventilation or protective equipment/clothing, reduced needs for fire or other types of insurance, reduced workers' compensation costs for injuries or illnesses, etc. Moreover, substitutions may have the added advantage of reducing exposure for other workers who have not yet shown any adverse health effects.

For some chemical exposures, it may be possible to have medical testing to determine if an individual is likely to have an allergic reaction to an exposure or to diagnose hyperreactive respiratory airways. It is important that such testing be performed post-job offer or by a physician who reports to the employer only the information as to whether the employee can perform the requirements of the job and what accommodations might be necessary so that privacy can be protected and the potential for discrimination reduced.

Resources

For information on the Americans with Disabilities Act and accommodations the following can be contacted:

ADA Regional Disability and Business Technical Assistance Center Hotline, (800) 949-4232 (voice/TTY).

Job Accommodation Network, (JAN), West Virginia University, PO Box 6080, Morgantown, WV 26506-6080, (800) ADA-WORK (voice/TTY).

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EMPLOYING AND ACCOMMODATING INDIVIDUALS WITH HISTORIES OF ALCOHOL AND DRUG ABUSE

Program on Employment and Disability
New York State School of Industrial
and Labor Relations
CORNELL UNIVERSITY

Why is Drug and Alcohol Abuse Considered a Disability?

Clinicians and researchers commonly divide drug and alcohol consumption into three levels or stages of use: use, abuse, and dependence. While the use of drugs and alcohol does not generally rise to the level of an impairment that constitutes a disability, abuse and dependence do. Drug and alcohol abuse is characterized by intensified, regular, sporadically heavy, or "binge" use, and dependence is characterized by compulsive or addictive use.

Drug and alcohol abuse and dependence are classified as treatable illnesses by both standard diagnostic medical manuals, the Diagnostic and Statistical Manual IV (DSM-IV) and the International Statistical Classification of Diseases, Injuries, and Causes of Death (ICD-10). These manuals also provide criteria for diagnosing drug and alcohol abuse and dependence that focus on psychological, behavioral, and cognitive symptoms. The impact of drug and alcohol use on social and occupational functioning is an important factor in evaluating the severity of an individual's condition.¹ Many individuals with drug and alcohol problems can continue to function in their jobs long after drug and alcohol use has begun to take its toll on family and social functioning.

What Protections Against Discrimination are Provided to Individuals With Drug and Alcohol Impairments?

Many employers do not realize that the Americans with Disabilities Act (ADA) protects individuals with drug and alcohol problems against discrimination in employment. This confusion exists because the ADA imposes some special requirements for the employment of individuals with current drug problems.

People with past drug or alcohol problems are protected from job discrimination by the ADA, as are

persons with current alcohol problems who are able to perform their job. The only individuals with drug and alcohol problems who do not have the same rights as others with disabilities are those who currently use drugs illegally.

The ADA specifically excludes from the definitions of "individual with a disability" any employee or applicant who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use. This includes individuals who use illicit drugs as well as those who use prescription medications unlawfully. Individuals who use drugs under the supervision of a licensed health care professional -- such as methadone -- are not using drugs illegally, and therefore could be protected against discrimination.

Although individuals with current drug problems are not protected, the ADA specifically protects individuals who are participating in a supervised drug rehabilitation program or who have completed a treatment program or have been rehabilitated through self-help groups, employee assistance programs or any other type of rehabilitation, and are no longer using drugs.

In addition, the ADA protects individuals who are erroneously perceived as abusing drugs illegally, but are not doing so. Because of societal attitudes about drug abuse, many individuals who have had drug problems in the past are perceived as still being drug dependent. Similarly, individuals who participate in methadone maintenance programs are also often perceived as drug dependent, even though methadone is a lawfully prescribed medication and individuals who participate in a methadone maintenance program are able to do every task -- even safety-related tasks -- that a person who is not receiving such treatment can do. These individuals are protected against discrimination under the ADA.

Workplace drug testing programs also create a pool of individuals who may be erroneously perceived as being drug

dependent when, in fact, they are not. Invariably, drug tests will inaccurately identify some individuals as drug users. This occurs because the drug test may be performed incorrectly, substances in an individual's system may be incorrectly identified as a drug, or a prescription medication may be incorrectly identified as an illicit drug. The ADA prohibits discrimination against individuals who are erroneously regarded as engaging in the illegal use of drugs because of a false positive drug test, but are not engaging in such use.

Individuals with current alcohol impairments are protected against discrimination like any other individual with a disability. Alcohol is not considered a "drug" under the ADA, and, therefore, the current abuse of alcohol does not exclude an individual from the ADA's protection. Individuals with current alcohol impairments, like any other individual with a current disability, must be able to perform the essential functions of the job to be protected against discrimination. In addition, the ADA specifically permits an employer to hold employees who abuse alcohol to the same performance and conduct standards applicable to all employees, even if that employee's problems are related to the alcohol abuse.

What is "Current" Illegal Use of a Drug?

To determine whether an employee or job applicant is "currently" using drugs illegally, an employer must make an individualized determination that focuses on whether the individual has used drugs close enough to the time of the employment action to indicate that there is a real and on-going problem. It is not permissible to impose a blanket time limitation, such as 30 or 60 days of abstinence from drugs, as a way to define what is "current" illegal use of drugs. In addition, because the ADA protects individuals who are participating in a rehabilitation program and those who have been rehabilitated (as long as they are not still using drugs

illegally), employers should be careful about reaching back in time and taking adverse actions against individuals for drug use that occurred before they entered treatment.

What Medical Tests or Inquiries are Permitted to Determine Whether an Individual has a Drug or Alcohol Problem?

The permissible scope of medical tests and inquiries depends upon whether an employer is seeking information, on the one hand, about a current drug impairment or a current or past alcohol impairment or, on the other, past drug impairment. Because the current illegal use of drugs is not a protected disability, employers can obtain information about drug use that they could not otherwise get about other disabilities.

For example, employers may ask a job applicant about current illegal use of drugs prior to a conditional offer of employment. They may also ask an employee about current illegal use of drugs at any time without showing that the inquiry is job related or required by business necessity. Finally, the ADA explicitly states that a test to detect the illegal use of drugs is not considered a medical examination, and, therefore, drug tests may be given prior to a conditional offer of employment or at any time in an employee's tenure.

Employers must be careful, however, in conducting a drug test prior to a conditional offer of employment because the drug test could reveal information about other disabilities that applicants have a right to withhold until after an employment offer. For example, a drug test could reveal the presence of dilantin, which is used to treat epilepsy, or methadone, which is used to treat heroin addiction. If such protected information is obtained, employers cannot use such information in a way that violates the ADA. The ADA also requires that information collected from medical examinations and inquiries be collected and maintained on separate forms and in

separate medical files and treated as a confidential medical record.

Inquiries about alcohol use or past drug use, on the other hand, must be treated like inquiries about any other disability. Such inquiries cannot be made of applicants until after a conditional offer of employment or of employees except when job related or required by business necessity. In addition, urine or breath tests that detect the use of alcohol cannot be done prior to a conditional offer of employment or cannot be required of an employee unless the test is job related and required by business necessity.

What Can an Employer Do To Ensure that an Individual is No Longer Using Drugs?

The ADA permits employers to take reasonable steps to ensure that an individual is no longer illegally using drugs. Employers are permitted to conduct drug tests and to obtain information from treatment programs in order to monitor drug use. If an employer has an employee assistance program (EAP), the EAP may be the best entity to conduct the follow-up.

While the ADA does not impose many restrictions on drug testing, employers are required to use accurate test procedures and to comply with any federal, state, or local law that regulates drug testing.

In addition, when seeking information from a drug or alcohol treatment program about an individual's rehabilitation, employers should be aware that federal regulations govern the release of drug and alcohol patient information by virtually all treatment programs.² These regulations, in order to protect the confidentiality of individuals with drug and alcohol problems, require the execution of a detailed consent form before employers can receive treatment information and place strict limitations on the employer's use, maintenance and redisclosure of that information. Because these regulations impose more stringent confidentiality standards than

those in the ADA, they supercede the ADA's requirements for protection of drug and alcohol treatment information.

What Accommodations Do Individuals With Drug and Alcohol Problems Need?

Accommodations for individuals in recovery from a drug or alcohol problem will vary depending upon the requirements of their jobs and their length of time in recovery. For example, individuals who have recently completed a rehabilitation program may need to participate in a structured, out-patient continuing care program on a regular basis. Others who have been sober for a long time will participate in self-help groups, such as Alcoholics Anonymous, for the rest of their lives in order to prevent relapse. Involvement in such continuing care may require some accommodation.

Examples of necessary accommodations could include:

- a modified work schedule to permit an employee to pick up her daily methadone dosage or to attend an out-patient relapse prevention counseling session.
- job restructuring to relieve an employee of particular marginal tasks that may compromise recovery or be inappropriate in the early stages of recovery.
- temporary reassignment of an employee in a safety-related position to a vacant non-safety sensitive position while he or she completes treatment.

In addition, because individuals with current alcohol impairments are protected against discrimination to the extent they can perform their job effectively and safely, employers are required to consider providing unpaid leave to permit an individual with a current alcohol impairment to attend an in-patient treatment program. In addition, if an employer provides paid leave to individuals who are obtaining medical treatment for a disability, the employer must provide the same benefit to an individual who is obtaining treatment for an alcohol problem.

Some employees will need no accommodation, but simply a change in attitude regarding what an individual with a past drug or alcohol impairment can do. It is important to understand that such individuals are able to perform all jobs safely, including safety-related jobs, and that they pose no risk to others solely because of a past drug or alcohol addition. An employer's most important obligation under the ADA is to evaluate the individual's ability to do the essential job tasks and make employment decisions based on the individual's qualifications and work performance.

How Do Other Federal Laws Relating to Drug and Alcohol Use Affect the ADA's Standards?

The ADA permits employers to comply with other federal laws and regulations that relate to drug and alcohol use. These federal standards include the Drug Free Workplace Act and standards established by the Department of Transportation, Department of Defense, and the Nuclear Regulatory Commission relating to testing safety-sensitive employees for drug use, and in some cases, alcohol use. The standards established by these other federal laws and rules are consistent with the ADA and, generally do not restrict the rights of individuals in safety-related jobs beyond what the ADA permits.

The drug testing regulations, in particular, cover a fairly narrow set of employees whose jobs directly affect safety. They require employees to comply with restrictions on off-duty drug and alcohol use and prohibit individuals who violate drug or alcohol rules from holding safety-sensitive jobs. The regulations give employers the right to determine when individuals who have tested positive for drug or alcohol may return to work in the safety-related position.

Apart from these standards, the ADA does not permit employers to treat individuals with past drug or alcohol

impairments who hold safety-related jobs any differently from other employees.

Resources

For information on the Americans with Disabilities Act and accommodations the following can be contacted:

ADA Regional Disability and Business Technical Assistance Center Hotline, 800/949-4232 (voice/TTY).

The Equal Employment Opportunity Commission, 1801 L Street, N.W., Washington, DC 20507, 800-669-4000 (Voice) to reach EEOC field offices; for publications call (800) 800-3302 or (800)-669-EEOC (voice/TTY).

There are a number of organizations that can provide information about drug and alcohol problems and assist individuals with such problems. Some of these are:

Employee Assistance Professional Association, 4601 North Fairfax Drive, Suite 1001, Arlington, VA 22203, 703/522-6272.

Job Accommodation Network (JAN), West Virginia University, PO Box 6080, Morgantown, WV 26506-6080, (800) ADA-WORK (voice/TTY).

Legal Action Center, 153 Waverly Place, New York, NY 10014, 212/243-1313, and 236 Massachusetts Avenue, N.E., Suite 510, Washington, DC 20002, 202/544-5478.

The Workplace Center, Columbia University, School of Social Work, 622 West 113th Street, New York, NY 10025, 212/854-5458.

¹ Institute of Medicine, *Treating Drug Problems*. 61-62, 69-72 (1990).

² Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2.

This publication was developed by Ellen M. Weber, Co-Director of National Policy of the Legal Action Center, 236 Massachusetts Avenue, NE, Suite 510, Washington, DC 20002, 202/544-5478.

For further information contact:

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- ◆ Causes of Poor Indoor Air Quality and What You Can Do About It

For further information about publications such as these, contact the ILR Program on Employment and Disability, Cornell University, 102 ILR Extension, Ithaca, New York 14853-3901; or at 607/255-2906 (Voice), 607/255-2891 (TTY), or 607/255-2763 (Fax).

WORKING EFFECTIVELY WITH PERSONS WHO HAVE COGNITIVE DISABILITIES

Program on Employment and Disability
New York State School of Industrial
and Labor Relations
CORNELL UNIVERSITY

What is Reasonable Accommodation?

The critical concept in the Employment Provisions (Title I) of the Americans with Disabilities Act of 1990 (ADA) is that of *reasonable accommodation*. Reasonable accommodation is any modification or adjustment to a job, an employment practice, or the work environment that makes it possible for a qualified individual with a disability to participate in and enjoy an equal employment opportunity. The employer's obligation to provide a reasonable accommodation applies to all aspects of employment; the duty is ongoing and may arise any time a person's disability or job changes, unless the accommodation causes an undue hardship to the employer. An employment opportunity cannot be denied to a qualified applicant or employee because of the need to provide reasonable accommodation.

According to the ADA, if the cost of an accommodation would impose an *undue hardship* on the employer, the individual with a disability should be given the option of providing the accommodation or paying that portion of the cost which would otherwise constitute an undue hardship for the employer.

Who is Likely to Need an Accommodation for a Cognitive Disability?

"Cognition" refers to "understanding", ability to comprehend what you see and hear, and to infer information from social cues and "body language". People with these impairments may have trouble learning new things, making generalizations from one situation to another, and expressing themselves through spoken or written language. Cognitive limitations can arise at any age but those encountered in people of employable age are very likely to have existed since childhood; in this case the limitation may have affected life experience as well as school learning. In the past, hundreds of thousands of these individuals have ended up on welfare, but in recent years a number of major service industries, - hotel chains, supermarkets, banks, fast food chains, retail stores - have found that it pays to accommodate employees with cognitive support needs. Since the pattern of need for supports is highly individual, it is important to take time to get acquainted with the applicant or employee and to structure one's approaches accordingly.

Cognitive limitations of varying degrees can often be found in people who have been classified in school as learning disabled, mentally retarded, autistic, multiply handicapped, or who have been diagnosed as having a head injury or Down Syndrome. It is important, however, not to

approach an individual with any preconceived notions as to his or her specific capabilities. Not everyone who is slow speaking is cognitively impaired.

What Considerations Might be Important in the Job Application and Interview Process?

Individuals with cognitive disabilities may require help in the job application and interview process. Some easy accommodations to make during these processes could include:

- Simplifying and minimizing wording on the job application;
- Clarification and assistance in completing information needed on the job application;
- Conducting a verbal interview to obtain job application information that may be more complex in nature and difficult to put in writing;
- Describing job requirements clearly, concisely and simply; showing the person the job;
- Adjusting length of interview to maximize applicants ability to remain attentive and decrease stress level;
- Interviewing in a quiet, informal, distraction-free environment;
- Using multiple formats to advertise job postings, such as newspaper and radio advertising.

What About Job Training and Performance Considerations?

Individuals with cognitive disabilities may have directly

relevant work experience, but sometimes they may need to be taught their specific job. In this case, the reasonable accommodation needed may be to have added assistance in job training. Such an accommodation could mean that the employer or supervisor:

- spend additional time in training the new employee;
- break job tasks down into smaller steps which are more clearly defined;
- use very clear and basic language to provide job instructions;
- develop a set routine in a job;
- develop a consistent work sequence;
- allow the employee to use alarm watches or timers;
- develop pictures or diagrams showing job sequence to assist in learning tasks;
- teach the employee with the disability how to follow the example of co-workers to learn work routines and appropriate work behaviors;
- encourage co-worker involvement in ongoing support, if needed.

It is most helpful if the employer or supervisor takes time to orient the employee to company rules as presented in the basic orientation training or company handbook; being clear about the expected level of quantity and quality of work, and the method of performance appraisal should be a part of this discussion.

The ADA's mandate to accommodate includes all aspects of employment. Another potential accommodation for a person with

cognitive support needs may be assistance in fitting in with co-workers. Once hired and in the job, the employee might need added assistance to be included in company social events, participate in in-service training, and to be considered for job advancement and promotional opportunities.

Some other such supports to consider may include:

- developing a transportation network to aid the employee in attending social activities;
- facilitating relationships with co-workers;
- ensure accessibility of in-service training activities;
- investigating other jobs for promotion potential;
- maintaining an open relationship with the employee regarding performance and work behavior expectations.

Are There Other Possible Considerations in Working with People with Cognitive Disabilities?

The ADA encourages the reasonable accommodation process to be an informal, interactive process which starts with the employer and the person with the disability jointly exploring what the best accommodation might be to support the individual. In the case of a person with cognitive disabilities, it might also be desirable to involve in this process someone who can serve as an advocate and assist in communication, such as a job coach, family member, or rehabilitation counselor. The potential employee should, to the

maximum extent possible, be central in these discussions.

Individuals with cognitive disabilities who aspire to enter the job market generally have some sense of their own limitations. In fact such a sense is usually a positive indicator of success; at the same time the individual is likely to be sensitive to the stigma attached to his or her limitations and eager not to be identified as "retarded" or "stupid". The initial encounter is therefore very important. Creating an atmosphere of acceptance and trust at the outset does not prejudice the outcome in either direction.

While an individual with a cognitive disability may require support in the other areas mentioned below, it is important to check with a particular individual regarding the level of support that applicant or employee may need. Special considerations may include:

- not speaking in so simple (or loud) and basic a manner as to offend the individual;
- assigning and matching jobs that appropriately challenge and engage the individual;
- speaking directly to the individual regarding matters of concern;
- encouraging natural social relationships with co-workers;
- when using adaptations, job modifications or other

supports, making sure the individual with the disability is included in deciding which kinds of aids will be useful.

Where Can I Find Resources to Assist in the Accommodation Process?

A possible resource for both the employer and potential accommodation for the individual with a disability may be using supported employment and job coaching to assist the potential employee in the job application process, learning the tasks of the job, sustaining and progressing in the job, facilitating use of existing resources in the job, and moving to expanded job responsibilities, new career opportunities when possible, and serving as a human resources consultant. Additional contact information on national resources and resources in your area are listed below.

Resources

National and State Resources to gain further information about accommodations for persons with cognitive support needs are:

ADA Regional Disability and Business Technical Assistance Center Hotline - (800) 949-4232 (voice/TTY).

The Equal Employment Opportunity Commission, 1801 L Street, N.W., Washington, DC 20507, 800-669-4000 (Voice) to reach EEOC field offices; for publications call (800) 800-3302 or (800)-669-EEOC (voice/TTY).

State Offices of Vocational Rehabilitation

The Association of Persons in Supported Employment (APSE), 5001 West Broad Street, Suite 34, Richmond, VA 23230, phone (804)282-3655.

The Arc, 500 East Border Street, Suite 300, Arlington, Texas 76010, 817/261-6003 (voice) or 817/277-0553 (TTY).

*This publication has been developed by **Susanne M. Bruyère, Ph.D., C.R.C.**, Director, and **Thomas P. Golden**, Training Coordinator, Program on Employment and Disability at the School of Industrial and Labor Relations, Cornell University, Ithaca, New York 14853-3901, 607/255-7727 (voice) or 607/255-2891 (TTY).*

*The authors would like to gratefully acknowledge the helpful suggestions made by **Dr. Elizabeth Boggs**, in the development of this publication.*

For further information contact:

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WORKING EFFECTIVELY WITH INDIVIDUALS WHO ARE HIV-POSITIVE

Program on Employment and Disability
New York State School of Industrial
and Labor Relations
CORNELL UNIVERSITY

Are HIV-Positive Persons or Those Diagnosed with AIDS Considered to Have a Disability?

Yes, as the U.S. Congress, the Equal Employment Opportunity Commission, and the courts have indicated, those who are known or perceived to be infected with the human immunodeficiency virus (HIV) meet the definition of disability under The Americans with Disabilities Act of 1990 (ADA). This is due to the fact that HIV infection is a substantially limiting impairment. Anti-discrimination provisions also apply to caregivers and/or those who have a relationship or association with those with HIV infection.

What Can an Employer Ask About the Medical Condition of an HIV-Positive Person?

Employers may not ask job applicants about the existence, nature or severity of a disability. Nor can an employer require any applicant to undergo a medical examination. Thus, an employer cannot ask applicants if they have HIV infection, AIDS, or any opportunistic infection associated with AIDS. Nor can an employer require any applicant to take an HIV antibody test because that is a medical examination. However, applicants may be asked about their ability to perform specific job functions.

Under the ADA, an employer may ask individuals whether they have HIV infection or AIDS only after extending a conditional offer of employment. However, questions must be asked of all individuals entering a job category, not just an individual suspected of HIV infection. If a conditional job offer is withdrawn because of the results of such examination or inquiry, an employer must be able to show that:

- the reasons for the exclusion are job-related and consistent with business necessity, or the person is being excluded to avoid a "direct threat" to health or safety; and that
- no reasonable accommodation was available that would enable this person to perform the essential job functions without a significant risk to health or safety, or that such an accommodation would cause undue hardship.

Information that an individual has HIV infection will rarely justify withdrawal of the job offer. In many cases, HIV infection and AIDS will not interfere with the individual's ability to perform the essential job functions. Moreover, the individual is entitled to a reasonable accommodation to permit performance of essential job functions. Since the mere fact that an individual has HIV infection will almost never justify revoking a job offer, employers may want to consider whether it is advisable to make such inquiries. Similarly, employers may not want to conduct HIV testing because the results alone will not justify revocation of a job offer. Once an employer obtains such information, it must be kept confidential and the employer could be held liable if there is any breach of confidentiality. Asking current employees whether they have HIV infection or AIDS, or requiring employees to take an HIV antibody test, will rarely be permissible under the ADA, unless the employer can show that such inquiries or testing is job-related and consistent with the employers' business necessity.

What is Reasonable Accommodation?

The critical concept in the employment provisions (Title I) of the Americans with Disabilities Act of 1990 (ADA) is that of *reasonable accommodation*. Reasonable accommodation is any

modification or adjustment to a job, an employment practice, or the work environment that makes it possible for a qualified individual with a disability to participate in and enjoy an equal employment opportunity. The employer's obligation to provide a reasonable accommodation applies to all aspects of employment; the duty is ongoing and may arise any time a person's disability or job changes. An employer is not required to provide an accommodation that will impose an undue hardship on the operation of the employer's business. An employment opportunity cannot be denied to a qualified applicant or employee solely because of the need to provide reasonable accommodation.

If the cost of the accommodation would impose an undue hardship on the employer, the employer should determine if financial or technical assistance is available elsewhere, or the individual with a disability should be given the option of paying that portion of the cost which would otherwise constitute an undue hardship for the employer.

Since estimates show as many as 1 in 250 Americans is infected with HIV, accommodation in the workplace for infected individuals who can continue to work makes economic, as well as commonsense. Since these individuals' presence in the workplace poses no threat of transmission, their experience on the job is an asset to be retained. In addition, even those HIV-infected individuals who develop full-blown AIDS are able to remain productive members of the workforce for extended periods. These working years are increasing due to new treatments being introduced for HIV infection.

What Types of Accommodations Should be Considered for HIV-Positive Employees?

It is helpful if employers have established policies on non-discrimination for persons with life-threatening illnesses. These policies should emphasize that employees with illnesses such as cancer, AIDS, and heart disease may wish and be able to work a regular or modified work schedule. Most people infected with HIV do not show any symptoms of disease for many years after infection.

If the HIV-positive employee eventually becomes unable to perform essential functions, the employer must consider whether reasonable accommodation will permit him/her to do so.

Examples include:

- Flex-time to allow for medical appointments, treatment and counseling;
- Auxiliary aids and services, for example, large print for someone with AIDS who has developed a vision impairment; and
- Additional unpaid leave.

Which Employee Records Require Confidential Handling?

As previously mentioned, the ADA imposes very strict limitations on the use of information obtained from medical inquiries and examinations, including information relating to a person's HIV infection/AIDS. All such information must be collected and maintained on separate forms, in separate medical files, and must be

treated as a confidential medical record. This information cannot be stored in an employee's personnel file. There are only five situations in which medical information may be shared with others. This includes: sharing medical information with supervisors and managers about necessary restrictions on the work or duties of an employee, and necessary accommodations; first aid and safety personnel if the disability might require emergency treatment; government officials investigating compliance with the ADA; state workers' compensation offices or "second injury" funds; and insurance companies.

What If the Employer Feels that the Person who is HIV Positive Poses a Direct Threat to Health or Safety of Others, or Themselves?

The ADA does not require an employer to hire or retain an individual whose disability poses a "direct threat" to the health or safety of others or to him/herself. Direct threat means that an individual poses a significant risk of substantial harm to self or others, and covers concerns about transmission of infectious diseases, including HIV infection. A direct threat determination must be done on an individualized basis, assessing both the individual with a disability, his/her essential job functions, and the workplace. The assessment of risk must be based on current, objective medical or other factual evidence. A speculative or remote risk will not constitute a direct threat. If a direct threat is identified, the employer must determine whether a reasonable accommodation will eliminate or reduce the risk so that it is below the level of a direct threat.

Medical and public health authorities have established that HIV infection

cannot be transmitted through casual, social contact as exists in the vast majority of jobs and workplaces. Nor is HIV infection transmissible through food or food handling. As a result, HIV transmission in the workplace will rarely constitute a direct threat and thus can only rarely be the basis for firing or refusing to hire an individual with HIV infection.

An employer who treats a person with HIV infection or AIDS differently because of concerns that the individual may have tuberculosis and may infect others will violate the ADA. The mere fact that a person has HIV infection or AIDS does not mean the person has tuberculosis or any other impairment. Thus, it would be discrimination to refuse to hire a person with HIV infection because of concerns that the person might have active tuberculosis, or might develop tuberculosis in the future. Neither of these scenarios constitute a direct threat under the ADA because they are based on speculation.

Employees who are HIV-positive or have AIDS, as determined by a physician, may require the employee to be removed, temporarily or permanently, from environments dangerous to his/her own health. For example, a worker with immune system compromise in a child-care center may need temporary removal from exposure to children who have received live polio vaccine within 30 days, or have measles, as recommended in 1993 by the Centers for Disease Control and Prevention. The employer has the burden of proving that an individual's employment poses a direct threat. It is important that appropriate medical or public health resources and expertise be sought by the employer to assist in such accommodation decisions.

Does The ADA Affect the Employer's Choice of Insurance Benefits Where Coverage of HIV-Positive Persons is Concerned?

Employees with HIV infection/AIDS must be given equal access to whatever insurance or benefit plans the employer provides. An employer cannot fire or refuse to hire an individual with HIV infection/AIDS because the individual may increase the employer's future health care costs. Similarly, an employer cannot fire or refuse to hire an individual because the individual has a family member or dependent with HIV infection/AIDS that may increase the employer's future health care costs. However, universal preexisting condition clauses are permissible.

The EEOC has published guidance on health insurance plans that single out HIV infection, or any other disability for different treatments. Health plans that exclude coverage of HIV infection or place a lower cap on HIV as compared with other disabilities may violate the ADA if the employer cannot justify the differences in coverage.

Where Can I Find Resources to Assist in Accommodating the HIV-Positive Employee and Provide General Education on HIV to Our Workplace?

Workplace education which emphasizes that HIV and AIDS are not transmitted by casual contact may allow such an employee to be accommodated within a supportive atmosphere. It will also serve to reassure co-workers that they are not at risk and thus help preserve workforce productivity. The following are some possible resources to assist in the design of training for supervisors and co-workers or in the identification of an accommodation for a particular individual.

The U.S. Department of Health and Human Services Centers for Disease Control and Prevention provides:

National AIDS Hotline for education, information, and referrals: 800-342-AIDS. For Spanish access, 800-344-SIDA; or for deaf access, 800-AIDS-TTY.

Business Responds to AIDS Resource Service. Information, materials, and referrals for employers on national, state, and local resources on HIV/AIDS in the workplace. Includes small-business guidelines, sample Workplace Policy on Life-Threatening Diseases and Disabilities, information on the Americans with Disabilities Act, workplace policy and education, and resources. Call 800-458-5231.

Others:

ADA Regional Disability and Business Technical Assistance Center Hotline - 800-949-4232 (voice/TTY).

The Equal Employment Opportunity Commission, 1801 L Street, N.W., Washington, DC 20507, 800-669-4000 (Voice) to reach EEOC field offices; for publications call (800) 800-3302 or (800)-669-EEOC (voice/TTY).

National Leadership Coalition on AIDS, 1730 M Street, NW, Suite 905, Washington, DC 20036, 202-429-0930.

Job Accommodation Network: 800-JAN-7234 (US outside West Virginia), 800-JAN-INWV (inside West Virginia), 800-JAN-CANA (throughout Canada).

This informational brochure has been prepared by staff of the School of Industrial and Labor Relations, Cornell University.

For further information contact:

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- ◆ Causes of Poor Indoor Air Quality and What You Can Do About It

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WORKING EFFECTIVELY WITH PEOPLE WHO HAVE LEARNING DISABILITIES AND ATTENTION DEFICIT HYPERACTIVITY DISORDER

This brochure was written by Dale S. Brown, President's Committee on Employment of People with Disabilities, 1331 F Street, NW, Washington, DC 20004. For additional copies of this brochure, or others in the series, contact your Regional Disability and Business Technical Assistance Center by calling 1-800-949-4232, or write to the ILR Program on Employment and Disability at Cornell University.

*Program on Employment and Disability
New York State School of Industrial
and Labor Relations
CORNELL UNIVERSITY*

What are Learning Disabilities and Attention Deficit Hyperactivity Disorder?

Learning disabilities and attention deficit hyperactivity disorder are related but different disabilities. Both are neurological in nature.

A learning disability may make it difficult for a person to receive information from his or her senses, process it, and communicate what s/he knows. The learning disability frequently causes severe difficulty in reading, writing, or mathematics. Many celebrities such as Susan Hampshire, Dexter Manley, Greg Louganis, Nelson Rockefeller have made public statements about their learning disabilities.

Attention deficit hyperactivity disorder (often shortened to attention deficit disorder or ADD) may make it difficult for an employee to sit calmly and give a task his or her full attention.

Both learning disabilities and attention deficit hyperactivity disorder (LD and ADD) affect 3 to 10% of the American work force. LD and ADD have been publicized extensively. Many students are diagnosed with these disabilities. As a result, today's employer often finds applicants and current employees who state that they have a LD or ADD. These workers are often intelligent, creative and productive. Hyperactivity, properly channeled, can enable the worker to finish projects swiftly. However, s/he may need reasonable accommodation to share his or her talents with employers.

Is There a Connection Between The Americans with Disabilities Act and People with Learning Disabilities or Attention Deficit Disorder?

The Americans with Disabilities Act (ADA) prohibits discrimination against people with disabilities. The term disability under the ADA refers to a person with "a) a physical or mental impairment that substantially limits one or more of the major life activities of such individual, b) a record of such an impairment or, c) being regarded as having such an impairment." Job applicants who have been through special education may not be discriminated against based on a school record of a disability. Employers may not discriminate against applicants with LD because of fears that they cannot read.

Both LD and ADD are considered physical or mental impairments. The term "Specific Learning Disabilities" is cited in the EEOC regulations implementing the employment provisions of the ADA (29 C.F.R. Part 1630). Frequently LD and ADD substantially limit one or more major life activities of the individual. Major life activities refers to functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. LD and ADD can affect all of these activities with the exception of breathing. But the impairment must be substantial. For example an employee whose auditory perception difficulty caused them to be unable to learn

from lectures would be substantially limited. The inability to take excellent notes of a highly detailed, eight-hour technical discussion would not constitute a substantial impairment.

An individual's limitations must be caused by learning disability. Thus, an employee who is unable to read or write because he or she was never taught these skills and not because of a learning disability, would not be an individual with a disability under the ADA.

How Can a Person with LD and ADD be Accommodated?

Job accommodation begins with an examination of whether any adjustments or modification in the work environment or in the way things are customarily done are necessary to enable an individual with a disability to perform the essential functions of a particular job. Some people with LD and ADD do not need accommodation, because they have developed helpful strategies and made a good match between the job and themselves. Some people with ADD control their symptoms with medication.

However, a learning disability may interfere with the ability of the person to perform the essential functions of the job. In that case, the employer may need to accommodate the employee. The employee is your partner in job accommodation. First, ask them what they need to be the most productive. For example, what is the best way for you to communicate

with them? In writing? Speaking? Both? If they need to learn a new process, do they prefer you to tell them, show them, or give them a manual? Flexibility and patience are crucial.

A typical but hypothetical story involves "Diedre", a writer for a major national corporation. She had mild dyslexia which caused her to reverse letters, words, and numbers. She was also hyperactive due to ADHD. Her coping strategy was to take breaks and walk once around the block. When she was wrestling with a tough writing problem, she took longer walks, since her hyperactivity made it difficult for her to think clearly about creative problems while sitting still.

Despite these challenges, she produced more work than her coworkers. Her supervisor, John, gave her the most complicated writing assignments he had. When John left for another job, Tom took over. Tom was concerned about Diedre's "typos." John had simply made the changes required and never bothered Diedre about it. In addition, Tom objected strongly to Diedre being "away from her desk." Diedre and Tom came into frequent conflict over these issues. After a month of difficulties, Diedre disclosed her learning disability to Tom through a memorandum that included medical documentation. Tom did not believe her. She appealed to Tom's boss who ignored the situation, refusing to meet with her or answer her memos.

Tom's apparent reluctance to accommodate Diedre's disability could be discriminatory under the

ADA, unless the company could prove that providing the accommodation (which had been given to Diedre before) would result in undue hardship on the operation of the business.

In this story, Diedre did not pursue a complaint and was laid off one year later. Interestingly enough, Diedre was soon earning more than her old salary as a freelance writer. John, the first manager, never realized he was accommodating her disabilities. He felt he was simply doing what was necessary to help his employee be productive.

What are Some Accommodations for specific aspects of LD and ADD?

The employee has difficulty with visual perception (seeing). This employee needs neat and well organized surroundings. Color coded files may help to distinguish similar objects from each other. Some software has graphic symbols that refer to different operations but look alike. In that case, your system manager may be able to change the icons.

The employee has difficulty reading. This employee often "reads" printed matter by using "talking" computers and calculators. Another individual might read to them. They use tapes. They usually prefer verbal rather than written instructions. For people who read slowly, allow extra time. Let them know about the most important items to read. Tape written communications. Highlight pertinent information. Graphic presentations such as diagrams and flow charts may assist.

The employee has difficulty with auditory perception (hearing). This employee hears inaccurately and often can not understand a person who is speaking when there is background noise. Catch their eye before beginning the conversation. Talk to them in quiet places. Ask them to repeat what you said. If they take notes, allow them to finish writing before you continue talking. The supervisor must be sure the employee understands.

The employee has difficulty writing. This employee may find working with the supervisor on and outline of the assignment to be helpful. Computers can be crucial. Software which checks spelling and grammar is useful. Arrange to have someone proofread their work.

The employee does not manage their time well. Many LD and ADD employees lack an inner sense of time. The LD or ADD employee may come in late and work past breaks and quitting time. They have difficulty with deadlines. Consider flextime, unless coming in on time is essential to your work. Offer to remind them before deadlines. Buzzers, computer software with "reminder" features, and detailed scheduling are common ways to resolve these difficulties. The employee who comes in late but leaves on time may have a motivational problem.

The employee is easily distracted. Some employees, particularly with ADD, are not able to shift their attention at will. They may have extreme difficulties in an open space environment and need quiet to concentrate on their work. Accommodations have included

allowing the employee to work at home on occasion, providing a private space, providing a quiet location, and allowing the employee to work at night and on weekends in return for time off during the busier days. These employees may find interruptions particularly problematic. Allow them to turn the telephone off and return calls later.

The employee is restless. Hyperactivity can make it difficult for some employees in sedentary jobs to stay at their work station. Usually, frequent short breaks solve this problem. Hyperactivity can be an advantage enabling the employee to work long hours and sustain an energetic pace.

How Can Employers Assist in the Advancement of People with Learning Disabilities and Attention Deficit Disorders in the Workplace?

People with learning disabilities and attention deficit disorders have the same desire and skills for promotions as your other employees. Sometimes, a person who is an excellent candidate for promotion will refuse it, because they are concerned about the reading and writing demands. In this case, accommodation can enable the employer to gain an excellent manager or supervisor. Care should be taken to assure that promotional examinations do not screen out employees with learning disabilities. People with LD and ADD often make excellent leaders. Their creativity and problem solving capacities can add tremendously to the bottom line of your company.

Resources

Learning Disabilities Association of America

4156 Library Road
Pittsburgh, PA 15234
(412) 341-1515

President's Committee on Employment of People with Disabilities

1331 F Street, N.W.
Washington, DC 20004
(202) 376-6200

Job Accommodation Network

West Virginia University
P.O. Box 6080
Morgantown, WV 26506-6080
(800) 526-7234

National Center for Law and Learning Disabilities

P.O. Box 368
Cabin John, MD 20818
(301) 469-8308

The Equal Employment Opportunity Commission, 1801 L Street, N.W.,

Washington, DC 20507, 800-669-4000 (Voice) to reach EEOC field offices; for publications call (800) 800-3302 or (800)-669-EEOC (voice/TTY).

ADA Regional Disability and Business Technical Assistance Center Hotline: 800-949-4232 (voice/TTY).

This was written by Dale S. Brown, author of Steps to Independence for People with Learning Disabilities. She has written over 100 articles on various aspects of employing people with learning disabilities. In 1994, she was selected by the International Jaycees as one of Ten Outstanding Young Americans, to honor her work as a leader in the self-help movement for people with learning disabilities. She would like to thank the following people for their assistance reviewing this document:

Patricia Latham, JD, Founder and President, National Center for the Law and Learning Disabilities, and Larry B. Silver, M.D., Author, The Misunderstood Child, Dr. Larry Silver's Advice to Parents on Attention-Deficit Hyperactivity Disorder.

For further information contact:

This material was produced by the *Program on Employment and Disability*, School of Industrial and Labor Relations - Extension Division, Cornell University, and funded by a grant from the National Institute on Disability and Rehabilitation Research (grant #H133D10155). It has been reviewed for accuracy by the U.S. Equal Employment Opportunity Commission. However, opinions about the Americans with Disabilities Act (ADA) expressed in this material are those of the author, and do not necessarily reflect the viewpoint of the Equal Employment Opportunity Commission or the publisher. The Commission's interpretations of the ADA are reflected in its ADA regulations (29 CFR Part 1630) and its Technical Assistance Manual for Title I of the Act.

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CAUSES OF POOR INDOOR AIR QUALITY AND WHAT YOU CAN DO ABOUT IT

Program on Employment and Disability
New York State School of Industrial
and Labor Relations
CORNELL UNIVERSITY

What are the typical symptoms of poor indoor air quality?

- irritations of eyes, nose, and throat
- dry mucous membranes and skin
- erythema (reddening of the skin; rashes)
- mental fatigue, headache, and sleepiness
- airway infections, cough
- hoarseness, wheezing
- nausea, dizziness
- unspecific hypersensitivity reactions

There does not tend to be a rapid, acute onset of symptoms; rather, there are slow, subtle effects. The symptoms are often subjective, and other problems/stresses (including heat stress) may aggravate the problem. Some individuals may be particularly sensitive. Since people exposed to poor indoor air quality frequently experience subjective symptoms, they are often viewed as over-emotional or simply complainers -- so it is important to place this problem on a scientific basis so as to be able to take a more constructive, problem-solving approach.

What is poor indoor air quality?

An indoor air quality problem (also called "sick building syndrome") consists of the complaints, symptoms, and illnesses believed to be related to contaminants concentrated within buildings. With over 52 million office workers in the United States, plus teachers and students in school buildings, health care professionals and patients in hospitals, residents in apartments, the homeowner, and many others, there is a large population potentially affected. In fact, indoor air is an issue which impacts on the health and productivity of the majority of all working adults and the vast majority of working women.

What are the causes of poor indoor air quality?

- inadequate fresh air supply and/or poor ventilation system maintenance
- pollutants given off by building or furnishing materials
- pollutants from processes occurring within the building, including cleaning products, office machines, pesticides, offgases from new materials
- microorganismal contaminants, or,
- contaminants brought into the building from outside.

When building ventilation is inadequate, the resulting low air-exchange rate is such that there is insufficient fresh air brought into the building to dilute or flush out contaminants and they can become concentrated within the building. Improving indoor air quality does not mean that the indoor air must be a pristine pure environment, but rather that building occupants should not be subjected to air quality which is significantly worse than the air outside.

How do you find out if your building has an indoor air quality problem?

Gather information from the building occupants

When investigating complaints of indoor air quality, it is important to determine the nature of the complaints and extent of the problem. This can be accomplished by surveying the building occupants. When collecting information about occupant complaints:

- review the records of complaints; if there are no existing records, begin the use of a complaint log
- interview the occupants, either directly or by the use of a

questionnaire, or both. Avoid asking questions, particularly about health, which might be unnecessarily intrusive; such as about reproductive history or psychological problems.

- ask occupants to document their observations in an occupant diary.

Check out the ventilation system

Find out if there is enough fresh air being brought into the building. The American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) 62-1989 recommends that office spaces have 20 cubic feet per minute (cfm)/person of outdoor air provided. Verify this with carbon dioxide measurements; outside there is about 300-350 ppm of carbon dioxide. Inside, the carbon dioxide should be less than 1000 ppm. Examine the intakes and exhausts for contamination and cross-contamination; verify this with carbon monoxide or other measurements as appropriate. For any monitoring performed, measure the same items in the outdoor air for comparison purposes. Be careful in the choice of method used so as to obtain a low enough detection limit as to be able to compare indoor with outdoor air. Check out the heating, ventilation, and air conditioning system's performance and maintenance. Walk through the building and look for signs of leaks and water damage. Check the chemical usage in the building and look for potential sources of air contaminants. Make any corrections necessary as a result of these examinations and then re-survey the building inhabitants to see if conditions have improved and if any problems remain.

Further monitoring (if needed)

If the corrections to ventilation do not fix the problem or if the ventilation system was adequate, it may become necessary to proceed further to better

identify the specific contaminants and their possible sources, such as: microbial monitoring (with or without identification of the bacteria and molds), measurement of particulates (with or without identification of particles and fibers), or chemical analysis for air contaminants (such as formaldehyde, ozone, pesticides, volatile solvents). And, as above, take outdoor measurements as well and compare indoor air with outdoor air. This additional monitoring is usually considerably more expensive than the measurements taken as described above. Consider whether the expense is justified; it may be far more cost-effective to remove the contaminant source than to pay for the testing. Consider whether this additional data will make a difference in the decision to fix or not fix a potential problem. If you are going to fix it anyway, are the data needed to confirm that exposure happened or are the data a waste of the funds which could be used to fix the problem?

Keep building occupants informed

Building occupants should be kept informed during the entire process of investigation and mitigation, including:

- how the investigation is progressing, the types of information being gathered, and ways that they can help the process along
- the nature of the health problems being reported; this enables occupants to put their symptoms into perspective
- how long the investigation is expected to last
- any attempts which are made to improve indoor air quality
- any remaining work which needs to be done and the schedule for its completion.

If the above described investigation

appears to indicate that an indoor quality problem exists, a qualified expert should be consulted to make appropriate recommendations for remediation; such an expert could include an industrial hygienist, ventilation engineer with IAQ experience, HVAC contractor with IAQ experience, safety risk manager with IAQ experience, or other similarly qualified consultant.

What can you do to correct poor indoor air quality problems?

If ventilation is inadequate, increase the fresh air supply to meet the recommendations of Standard 62-1989 of the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE). This industry standard recommends ventilation needs in terms of the amount of cubic feet per minute per person of fresh air for rooms and buildings depending upon their usage. For office space, it recommends 20 cfm/person of outdoor air. Check to make sure that air intakes and exhausts for each room are functioning. Ventilation adequacy can be verified by measuring the air concentration of carbon dioxide during occupancy.

If indoor sources are the problem, choose alternative products or eliminate the use of troublesome products. Schedule product usage or construction/remodeling for times when it will have the least impact on occupants. Consider changing schedules or using flextime or time off for sensitive individuals such as those who are pregnant or who have allergies, respiratory, cardiovascular, or other problems which the exposure could adversely affect. Provide better ventilation or local exhaust ventilation for specific contaminant sources. Ban smoking in the building or provide a smoking

lounge with smoke vented to the outside away from any air intakes. Consider increased ventilation or "baking off" for new materials or remodeled areas. "Baking-off" is a technique for speeding up the offgassing of new materials by heating the room, wing, or building (as appropriate) to about 80-85 fahrenheit for about 12 hours; then drop the air temperature as low as possible for the next 12 hours and ventilate during this cooling cycle. The heating/cooling cycles can be repeated several times.

If outside sources are the problem, separate air intakes from exhausts or raise exhausts higher to prevent exhaust air from being drawn back inside. Prevent vehicles from idling for long periods of time near air intakes. Separate a garage's part of the ventilation system from that servicing the rest of the building.

If biological contamination is the problem, make sure there is adequate cleaning and maintenance of air intakes, filters, and ductwork. Fix leaks, condensation, and standing water in the building or the ventilation system. Have the condensation from air conditioners go to a floor drain. Discard water-damaged items and those with porous surfaces. Disinfect nonporous materials.

If building fabric is the problem, baking off may help. Check insulation to verify its proper installation; verify with appropriate air monitoring.

What could be reasonable accommodation under the ADA for someone who needs better air quality (even after corrections are done)?

In striving to make the indoor environment not significantly different

from the outdoor environment, the building air quality may reach the limit of what is feasible for a whole building performance approach. Despite the best efforts to improve ventilation and remove sources of contaminants, you may discover that the individuals who meet the definition of disability under the ADA due to an environmental illness still require some form of reasonable accommodation to be able to perform their job. The following are some options which could be considered:

1. Consider removing from a room any chemical challenges by stripping the room of any items which could be a problem, such as carpeting or pressed wood products, and provide a plain floor, a metal desk, minimal use of solvent-based products, no air-fresheners, etc.

2. Consider the use of an air cleaning unit having a carbon filter and high efficiency particulate air filter (HEPA) capable of removing the problem contaminants. Be sure the unit is large enough to handle the air volume needs for the size of the room.

3. Consider moving the person to a different work environment such as a different room, wing, or building.

Resources

ADA Regional Disability and Business Technical Assistance Center Hotline - (800) 949-4232 (voice/TTY)

The Equal Employment Opportunity Commission, 1801 L Street, N.W., Washington, DC 20507, 800-669-4000 (Voice) to reach EEOC field offices; for publications call (800) 800-3302 or (800)-669-EEOC (voice/TTY).

Your local Department of Health at the state or county level.

USEPA, Indoor Air Division, Office of Air and Radiation, 401 M Street SW, Washington, DC 20460, (703) 308-8470.

USDHHS - NIOSH, Division of Surveillance, Hazard Evaluations and Field Studies, 4676 Columbia Parkway, Cincinnati, OH 45226, (513) 841-4428.

Chemical Hazard Information Program, Cornell University, School of Industrial and Labor Relations, 110 Pearl Street, 8th Floor, Buffalo, NY 14202-4111, (716) 842-1124.

National Center for Environmental Health Strategies, 1100 Rural Avenue, Voorhees, NJ 08043, (609) 429-5358.

Human Ecology Action League, P.O. Box 49126, Atlanta, GA 30359-1126, (404) 248-1898.

This publication was developed by Nellie J. Brown, M.S., Western Regional Director, Chemical Hazard Information Program, New York State School of Industrial and Labor Relations, Cornell University, 110 Pearl Street, 8th Floor, Buffalo, New York 14202-4111, (716) 842-1124.

For further information contact:

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WORKING EFFECTIVELY WITH PERSONS WHO ARE DEAF OR HARD OF HEARING

Program on Employment and Disability
New York State School of Industrial
and Labor Relations
CORNELL UNIVERSITY

Who is Considered Deaf or Hard of Hearing?

Hearing loss affects between 21 and 28 million Americans (about 10% of the U.S. population). The loss may range from mild (difficulty with or inability to hear soft sounds) to profound (difficulty with or inability to hear loud sounds). Generally speaking, this group can be divided into persons who are either hard of hearing or deaf.

Persons who are hard of hearing represent roughly 20 to 22 million people. The term "hard of hearing" refers to a hearing loss from 25dB (mild loss) to 90dB (severe loss). An individual with this degree of loss frequently communicates using a combination of strategies that rely on residual auditory ability enhanced by a hearing aid or assistive listening device and often supplemented through lipreading or other visual means.

Deafness is a low prevalence condition, affecting approximately one and a half-million persons. The term "deaf" refers to a hearing loss greater than 90dB (profound hearing loss). Persons are considered "deaf" if their hearing loss is such that they are unable to hear or understand speech and must rely on vision for communication. Persons who are deaf in the United States, especially those who are born deaf or lose their hearing at an early age, generally prefer to communicate using American Sign Language through sign language interpreters, or through reading, writing, or other visual means. Persons who are deaf and lose their hearing later in life, sometimes referred to as "late deafened", may have different communication preferences and rely on residual hearing, lipreading, captioning, or perhaps English based sign language.

What is the Impact of Hearing Loss at Work?

Research on the employment of workers who are deaf or hard of hearing indicates that on-the-job communication can be affected by the following factors.

- Lack of notetakers/assistive listening devices for meetings.

- No sign classes for hearing workers.
- No professional interpreters are made available as needed for job interviews, performance reviews, group meetings, and other situations.
- Co-workers have difficulty communicating with them.
- Supervisors have difficulty communicating with them.
- Poor (non-professional) interpreters are used.
- Written notes and company memos are often expressed in a level of English inappropriate to the reading abilities of particular deaf and hearing workers.

Consequently, employers often need to be prepared to make accommodations for employees who are deaf or hard of hearing in activities requiring communication. Examples of these activities include following detailed instruction, teamwork, adapting to change, or interacting with co-workers and supervisors.

What Types of Jobs Do Persons Who are Deaf or Hard of Hearing Have?

Persons who are deaf or hard of hearing can perform the majority of jobs available. However, there are factors that create communication barriers that can limit their participation in the workplace. These factors include physical and environmental barriers such as noise, light level within a room, and distance from a speaker. Attitudinal barriers are also factors that can limit participation of persons who are deaf or hard of hearing. They include stereotyping, ignorance, and focus on disability (limitations) rather than ability (strengths).

With few exceptions, persons who are deaf or hard of hearing, if given appropriate training and accommodations, have the same range of job options as any other person. There are indeed no jobs that are just for persons who are deaf or hard of hearing; they are employed in as diverse range of jobs as people who hear. In recent years, several persons who are deaf or hard of hearing have been successful in high profile jobs that require excellent communication skills, e.g., screen actors

Working Effectively with Persons Who are Deaf or Hard of Hearing

and President of the United States. Given their capabilities and provision of appropriate accommodations, persons with hearing losses can be productive employees in most any job. Persons who are deaf or hard of hearing have been successful as...

architects	mechanics
artists	merchants
computer	physicians
programmers	postal workers
corporate	psychologists
managers	lawyers
entrepreneurs	salespersons
financial	teachers
consultants	judges
telecommunications technicians	

Success on the job depends to a large degree upon the skill and attitudes of the worker as well as the willingness and ability of the employer to identify and resolve communication barriers encountered in the workplace. Appropriate accommodations may be implemented in all phases of employment, from participation in the selection process to training and advancement. Once an employer learns an applicant or employee is deaf or hard of hearing and in need of an accommodation, the employer may be required by the Americans with Disabilities Act to provide the needed accommodation.

Accommodating the Person Who is Deaf or Hard of Hearing During the Employee Selection Process

During the selection process, employers must determine if the deaf or hard of hearing applicant is capable of performing the essential functions of the job. It is critical to obtain an accurate picture of the applicant and his or her background, skills, and abilities to do the job. Typically this process involves two steps: screening written job applications and interviewing prospective applicants.

Some applicants who are deaf or hard of hearing may have difficulty in reading and comprehending written applications, especially those that are heavily loaded with complicated English phrases or unfamiliar terms. Appropriate

accommodations may include such strategies as allowing the person to take an application and obtain their own assistance in filling it out, allowing more time for completion, or providing a sign language interpreter. When an applicant notifies you about their hearing loss, the simplest strategy is to ask the applicant what appropriate accommodations are needed.

Accommodations may also be required during selection interviews. Minimally, interviews should be sensitive to the range of communication abilities of persons who are deaf or hard of hearing. Simple accommodations may include conducting the interview in a quiet, well-lit environment that minimizes visual distractions. The interviewer must be willing to use the interviewee's assistive listening device, if one is used. Talk at a normal pace and at a normal volume. If asked, be willing to repeat questions, converse at a different pace or volume, or try other strategies like note writing. Avoid sitting in front of bright lights or windows which make it difficult to speech read.

If requested, use an effective professional sign language interpreter. When using the interpreter, speak directly to the applicant, not the interpreter. The role of the interpreter is to facilitate communication, not explain or participate in the interview. All information shared in the interview is confidential and will not be disclosed by the interpreter to other parties. Referrals for professional sign language interpreters may be obtained from public or private agencies such as the local vocational rehabilitation office, the state commission for the deaf, or by consulting the telephone directory.

If group interviews are conducted, it is important to speak with one person at a time. Be sure the deaf or hard of hearing applicant knows that the interviewer is speaking before the interviewer or other persons in the room speak. Remember, your goal is to obtain an accurate picture of the person's skills, experience, and capabilities to do the job—not to miss this information due to communication difficulties.

Enhancing Productivity on the Job

Research has also documented that employers frequently rate deaf and hard of hearing workers as better or about the same as hearing co-workers in task performance (e.g., quality/quantity of output, attendance, safety, working without supervision). Workers give themselves similar ratings. However, both groups prioritized the following factors as critical to job retention and advancement:

- Access to periodic training to upgrade skills
- Access to staff and small group meetings
- Reassignment of job duties
- Use of interpreters
- Availability of Text Telephones (TTs) and assistive listening devices (ALDs)
- Rearranging rooms for good visual communication.

On the Job Accommodation to Enhance Communication

Enhancing the performance of the employee who is deaf or hard of hearing does not necessarily have to be expensive or require a great deal of equipment. In many instances, communication accommodations may be useful to all employees, not just those who are deaf or hard of hearing. The most important consideration is to identify the communication situations in which the deaf or hard of hearing employee is experiencing difficulty. The responsibility to improve or minimize communication barriers in these situations is equally shared by all persons in the workplace, those who are hearing, hard of hearing, or deaf. The following are examples of accommodations that could facilitate communication in a variety of situations:

Face to Face Situations

- ensure that the office and/or work environment is adequately lighted
- consider placing the worker in a quieter environment if environmental noise interferes with communication
- arrange the work station in a way that the worker can readily see when someone is entering their office or work-site

Working Effectively with Persons Who are Deaf or Hard of Hearing

- use assistive listening devices when needed
- use interpreters (oral and/or sign) when needed
- be aware of your personal habits that may serve as barriers to comfortable speechreading. Examples include hands in front of mouth, not directly facing employee, and chewing while talking
- encourage co-workers and supervisors to learn sign language by offering training classes

Interactive Distance Communication Situations

- ensure the availability of Text Telephones (TTs, also commonly referred to as TDDs or TTYs), amplification devices, or other appropriate assistive listening devices (ALDs) to help facilitate communication between other employees or customers
- use state telecommunication relay services, where an intermediate person receives verbal information and types it to the person using a TT. The "800" toll free phone numbers for these services are listed in local phone directories
- consider E-mail for intra and interoffice communication
- provide visual or tactile pagers for communication, instructions, and as an alerting system
- share information via networked computers
- use computer notetaking
- try FAX machines for intra or interoffice, and customer communication
- provide visual and auditory alerting devices on telephones and fire alarm systems

Group Situations

- ensure that all rooms used for meetings or training are adequately lighted
- utilize assistive listening devices such as FM, infrared, loop systems, and/or closed-captioning decoders in meeting and training sessions
- try real-time captioning for meetings and training sessions (simultaneously captioning as speaker speaks)
- caption video training materials
- use professional interpreters (oral and/

- or sign) when needed
- use notetakers in meetings and groups
- consider "communication cops" at meetings (one person who monitors the meeting to ensure that only one person speaks at a time)
- provide mentors and coaches

Performance Evaluations

Performance evaluations are typically based upon a written review coupled with a face-to-face interview. If reading ability necessitates extra time, provide workers with written information in advance. Since barrier-free communication is critical, use multiple strategies as necessary to ensure success. Multiple strategies include use of professional interpreters (sign or oral), computers, ALDs, and other appropriate strategies.

Resources

Prior to contacting any of the following resources, it is important to remember that the person with the most information and experience regarding needed workplace accommodations is the job applicant or worker. Ask the individual to tell you what accommodation(s) work best for that person in face-to-face, interactive distance, and group communication situations. If additional information or assistance is needed, consult the following resources.

University Resources

University of Arkansas RRTC for Persons who are Deaf or Hard of Hearing, 4601 West Markham, Little Rock, AR 72205, 501/686-9691 V/TT

Northern Illinois University RRTC for Persons who are Traditionally Underserved, Department of Communicative Disorders, DeKalb, IL 60115, 815/753-6520 V/TT

Job Accommodations Network, West Virginia University, P.O. Box 6080, Morgantown, WV 26506-6080, 800/526-7234 V/TT

Gallaudet University, National Information Center of Deafness, 800 Florida Avenue, NE, Washington, DC 20002, 202/651-5051 V/TT

National Technical Institute for the Deaf, National Center on Employment of the Deaf, 1 Lomb Memorial Drive, Rochester, NY 14623, 716/475-6205 V/TT

Consumer Organizations

National Association of the Deaf, 814 Thayer Avenue, Silver Spring, MD 20910, 301/587-1789 TT, 301/587-1788 V

Self Help for Hard of Hearing People, Inc., 7800 Wisconsin Avenue, Bethesda, MD 20814, 301/657-2249 TT, 301/657-2248 V

Association for Late-Deafened Adults, P.O. Box 641763, Chicago, IL 60664, 312/604-4192 TT

Professional Organizations

American Deafness and Rehabilitation Association, P.O. Box 21554, Little Rock, AR 72225, 501/663-7074 V/TT

American Speech-Language-Hearing Association, 10801 Rockville Pike, Rockville, MD 20852, 800/638-8255 V/TT

Registry of Interpreters for the Deaf, Inc., 8719 Colesville Road, Suite 310, Silver Spring, MD 20910, 301/608-0050 V/TT

Regional/State Resources

ADA Regional Disability Business Technical Assistance Center Hotline, 800/949-4232 V/TT

State Vocational and Independent Living Rehabilitation and/or State Office or Commission for the Deaf, listed in local phone books and directory assistance

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For more information write to: University of Arkansas Research and Training Center for Persons who are Deaf or Hard of Hearing, 4601 West Markham Street, Little Rock, AR 72205, 501/686-9691

For further information contact:

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OTHER TITLES IN THIS IMPLEMENTING THE ADA SERIES ARE:

- ◆ Working Effectively with Employees who have Sustained a Brain Injury
- ◆ Working Effectively with Persons who have Cognitive Disabilities
- ◆ Employing and Accommodating Workers with Psychiatric Disabilities
- ◆ Working Effectively with People who are Blind or Visually Impaired
- ◆ Working Effectively with People who are Deaf or Hard of Hearing
- ◆ Employment Considerations for People who have Diabetes
- ◆ Working Effectively with Individuals who are HIV-Positive
- ◆ Working Effectively with People with Learning Disabilities
- ◆ Workplace Accommodations for Persons with Musculoskeletal Disorders
- ◆ Employing and Accommodating Individuals with Histories of Alcohol and Drug Abuse
- ◆ Accommodating the Allergic Employee in the Workplace
- ◆ Causes of Poor Indoor Air Quality and What You Can Do About It

For further information about publications such as these, contact the ILR Program on Employment and Disability, Cornell University, 102 ILR Extension, Ithaca, New York 14853-3901; or at 607/255-2906 (Voice), 607/255-2891 (TTY), or 607/255-2763 (Fax).

Section Two

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Section Three

DIRECTORY OF FEDERAL AND FEDERALLY FUNDED
ADA TECHNICAL ASSISTANCE

OTHER FEDERAL AND FEDERALLY FUNDED ADA TECHNICAL ASSISTANCE

This Section summarizes federal and federally funded ADA technical assistance available to employers and people with disabilities.

Equal Employment Opportunity Commission Title I Training For People With Disabilities and Employers

During 1992, the Equal Employment Opportunity Commission will fund two national projects providing training for people with disabilities and for employers on their rights and responsibilities under Title I of the ADA.

ADA Regional Disability and Business Technical Assistance Centers

Congress mandated the National Institute on Disability and Rehabilitation Research to establish ten regional centers to provide information, training, and technical assistance to employers, people with disabilities, and other entities with responsibilities under the ADA. The centers act as a "one-stop" central source of information, direct technical assistance, training, and referral on ADA issues in employment, public accommodations, public services, and communications. Each center works with local business, disability, governmental, rehabilitation, and other professional networks to provide ADA information and assistance, and places special emphasis on meeting the needs of small businesses. Programs vary in each region, but all centers provide the following:

- **Individualized responses to information requests**, and a range of written and audio-visual materials on specific aspects of ADA compliance. Materials will include publications of the federal ADA enforcement agencies and specialized materials for employers, places of public accommodation, public service providers, and people with disabilities. Employer materials will cover many specific ADA issues, including accessibility, accommodations, recruiting, interviewing, testing, hiring, and job restructuring. Fact sheets, brochures, self-assessment guides, training modules designed for self-administration, and video and audiotapes will be available through the centers in 1992 and 1993.
- **Referrals to local sources of expertise in all aspects of ADA compliance**, including specialists in such fields as rehabilitation, independent living, ergonomics, architecture, and specific disabilities for

expert assistance in accessibility, accommodations, job analysis, assistive technology, disability awareness, recruiting, interviewing, hiring, testing, medical examinations, and other aspects of compliance. By Spring 1992, the Centers will be equipped with a common electronic resource database to provide extensive local, regional, and national referrals.

- **Training on ADA provisions and disability awareness** for employers, other covered entities, and for people with disabilities.
- **Direct technical assistance** on specific aspects of compliance with ADA employment and public accommodations requirements.

Regional centers and areas they serve are listed below. They also are listed as "ADA Technical Assistance Centers" in Section X by State.

Region I:

**Connecticut, Maine, Massachusetts, New Hampshire,
Rhode Island, Vermont**

New England Disability and Business Technical (207) 874-6535 Voice/TDD
Assistance Center
145 Newbury St.
Portland, ME 04101

Region II:

New Jersey, New York, Puerto Rico, Virgin Islands

Northeast Disability and Business Technical (609) 392-4004 Voice
Assistance Center (609) 392-7044 TDD
354 South Broad St.
Trenton, NJ 08608

Region III:

**Delaware, D.C., Maryland, Pennsylvania,
Virginia, West Virginia**

Mid-Atlantic Disability and Business Technical (703) 525-3268 Voice/TDD
Assistance Center
2111 Wilson Blvd., Suite 400
Arlington, VA 22201

Region IV:

**Alabama, Florida, Georgia, Kentucky, Mississippi,
North Carolina, South Carolina, Tennessee**

Southeast Disability and Business Technical (404) 888-0022 Voice
Assistance Center (404) 888-9007 TDD
1776 Peachtree St.
Suite 310 North
Atlanta, GA 30309

Region V:

**Illinois, Indiana, Michigan, Minnesota,
Ohio, Wisconsin**

Great Lakes Disability and Business Technical (312) 413-1407 Voice
Assistance Center (312) 413-0453 TDD
1640 West Roosevelt Rd. (M/C 627)
Chicago, IL 60608

Region VI:

Arkansas, Louisiana, New Mexico, Oklahoma, Texas

Southwest Disability and Business Technical (713) 520-0232 Voice
Assistance Center (713) 520-5136 TDD
2323 South Shepherd Blvd., Suite 1000
Houston, TX 77019

Region VII:

Iowa, Kansas, Nebraska, Missouri

Great Plains Disability and Business Technical (314) 882-3600 Voice/TDD
Assistance Center
4816 Santana Dr.
Columbia, MO 65203

Region VIII:

**Colorado, Montana, North Dakota, South Dakota,
Utah, Wyoming**

Rocky Mountain Disability and Business (719) 444-0252 Voice
Technical Assistance Center (719) 444-0268 TDD
3630 Sinton Rd., Suite 103
Colorado Springs, CO 80907-5072

Region IX:

Arizona, California, Hawaii, Nevada

Pacific Coast Disability and Business (510) 465-7884 Voice
Technical Assistance Center (510) 465-3172 TDD
440 Grand Ave., Suite 500
Oakland, CA 94610

Region X:

Alaska, Idaho, Oregon, Washington

Northwest Disability and Business (206) 438-3168 Voice
Technical Assistance Center (206) 438-3167 TDD
605 Woodview Dr.
Lacey, WA 98503

Job Accommodation Network

P.O. Box 6123, 809 Allen Hall, Morgantown, WV 26506-6123

(800) 526-7234 (Accommodation Information)(Out of State Only/Voice/TDD)

(800) 526-4698 (Accommodation Information)(In State Only/Voice/TDD)

(800) ADA WORK (800) 232-9675 (ADA Information)(Voice/TDD)

(800) DIAL JAN (800) 342-5526 (ADA Information)(Computer Modem)

Free consultant service funded by the President's Committee on Employment of People with Disabilities. Through telephone consultation with professional human factors counselors, provides information and advice to employers and people with disabilities on custom job and worksite accommodations. Performs individualized searches for workplace accommodations, based on the job's functional requirements, the functional limitations of the individual, environmental factors, and other pertinent information. Assists employers and individuals with disabilities in the use of a variety of public programs dealing with disability, including the Job Training Partnership Act, Projects with Industry, Supported Employment, Targeted Jobs Tax Credit, and barrier removal incentives. ADA Work Line is staffed by people experienced in discussing the application of the ADA, especially as it relates to accommodation and accessibility issues.

Videotape: "Bridging the Talent Gap," features a variety of individuals with disabilities successfully employed as a result of vocational rehabilitation and on-the-job accommodation; descriptive literature on JAN services.

The President's Committee on Employment of People with Disabilities

1331 F St., N.W., Washington, DC 20004

(202) 376-6200 (Voice) or (202) 376-6205 (TDD)

(See Section X for President's Committee State Partner Locations)

Provides information and advice on employment of people with disabilities. Conducts training conferences on ADA, and an annual meeting which offers training opportunities on many aspects of employing people with disabilities. Works with state organizations (President's Committee Partners,) which include Governors', Mayors', local committees, and disability rights advocacy organizations to increase employment opportunities for people with disabilities. Involved in programs with business, industry, and labor to educate and inform through local and national initiatives. President's Committee Partners provide technical assistance on employment and information on assistive technology and workplace accommodations for people with disabilities. Funds the Job Accommodation Network, which provides free consultation on specific accommodation issues (See above). **Publications:** Provides a range of informational materials on the ADA and practical guidance on job analysis, job accommodation and modification, hiring

and training people with disabilities, job placement, supervising employees with mental retardation, vocational rehabilitation, disability legislation and regulations, and working with people who have specific disabilities such as multiple sclerosis, blindness, diabetes, cerebral palsy, and cystic fibrosis.

Architectural and Transportation Barriers Compliance Board

1111 18th St., N.W., Suite 501, Washington, DC 20036-3894
(800) USA-ABLE (Voice/TDD)

Sets guidelines adopted as accessibility standards under Titles II and III of the ADA. Provides information on technical and scoping requirements for accessibility and offers general technical assistance on the removal of architectural, transportation, communication, and attitudinal barriers affecting people with disabilities. **Publications:** ADA Accessibility Guidelines for Buildings and Facilities; ADA Accessibility Guidelines for Transportation Vehicles; ADA Accessibility Guidelines for Transportation Facilities; Manuals on ADA accessibility guidelines for transportation vehicles; ADA Accessibility Guidelines Checklist for buildings and facilities; Uniform Federal Accessibility Standards Accessibility Checklist; Design bulletin series explaining various provisions of ADA Accessibility Guidelines for Buildings and Facilities; Booklets and guides on barrier-free design, accessible rest rooms, wheelchair lifts and slip resistant surfaces, transit facility designs, assistive listening devices, visual alarms, airport TDD access, and air carrier policies affecting people with disabilities.

National Institute on Disability and Rehabilitation Research

400 Maryland Ave., S.W., Washington, DC 20202-2572
(202) 732-5801 (Voice) or (202) 732-5316 (TDD)

Provides funding for three major programs to assist ADA compliance:

1. **ADA Regional Disability and Business Technical Assistance Centers.** (See above).
2. **Materials Development Projects.** During 1992 and 1993, a variety of written and audiovisual materials on employment, public accommodations, public services and communications aspects of ADA compliance will be developed and made available to the Regional Disability and Business Technical Assistance Centers for distribution to the public. These materials will include fact sheets, brochures, manuals, self-assessment guides, training modules, slides, and video

and audiotapes, and will be designed as self-instructional training resources for employers and other organizations, as well as for the Peer Training Projects (below).

3. **"Peer Training" Projects.** Two national training programs will be funded and conducted in 1992: (1) training for persons in the fields of Independent Living and disability advocacy on all aspects of the ADA; (2) training for people with disabilities, their families, and organizations representing them on rights under the ADA.

Both projects will develop trainers who can conduct additional training for other interested groups.

NIDRR also funds research projects that provide information on assistive technology and employment (See State Technology Assistance Projects below).

Department of Justice ADA Technical Assistance Grant Projects

The following organizations were funded by the Department of Justice in September 1991 to provide technical assistance on Titles II and III of the ADA. Some of these projects will also provide assistance on aspects of Title I compliance.

**American Foundation for the Blind (AFB) and
Gallaudet University - National Center for Law and
the Deaf (NCLD)**

1615 M St., N.W., Suite 250, Washington, D.C. 20036
(202) 651-5343 (NCLD) or (202) 223-0101 (AFB)

Through voice and TDD telephone information lines, will provide advice and technical assistance on a case-by-case basis to consumers and covered entities on overcoming communications barriers resulting from hearing and vision loss. Will develop and distribute pamphlets targeted at restaurants, the hospitality industry, places of assembly, health care providers, and consumers.

American Hotel and Motel Association

1201 New York Ave., N.W., Suite 600, Washington, D.C. 20005
(202) 289-3100

Will disseminate ADA information, develop and conduct a series of seminars for the hotel and motel industry at State-level Association conferences, and develop and distribute an ADA Compliance handbook for use by the lodging industry.

American Speech-Language-Hearing Association

10801 Rockville Pike, Rockville, MD 20852
Consumer Help (301) 897-5700 or (800) 638-8255 (Voice)
Consumer Help (301) 897-0157 (TDD)

Will disseminate information on the ADA to people with communications disabilities, professionals in the disability field, and covered entities, including retail stores, daycare centers, places of assembly, and emergency service providers. Will provide telephone information lines on communications access issues for businesses, audiologists, and persons with disabilities, and will develop and conduct a national workshop addressing these issues.

**The Association for Retarded Citizens of
the United States (ARC)**

500 East Border, S-300, Arlington, TX 76010
(817) 261-6003

Will disseminate information regarding the ADA as it applies to individuals with mental retardation. Will establish a national information center to develop and disseminate educational brochures to restaurants, hotels and motels, retail stores, and places of public assembly on how to provide cognitively accessible, integrated services. Will also conduct national training for ARC chapters on Title III and for organizations representing child care facilities, and develop and disseminate a resource book for child care centers.

**The Association on Handicapped Student Service
Programs in Postsecondary Education (AHSSPPE)**

P.O. Box 21192, Columbus, OH 43221-0192

(614) 488-4972

ADA Hotline (800) 247-7752 (Voice/TDD)

In collaboration with the National Clearinghouse on Licensure Enforcement and Regulations (CLEAR), will develop a manual on testing accommodations and ADA compliance by boards of licensure and certification. Also, will provide a telephone hotline to respond to ADA information requests from CLEAR members.

Building Owners and Managers Association International

1201 New York Ave., N.W., Suite 300, Washington, D.C. 20005

(202) 408-2684

Will conduct seminars nationwide for building owners and managers on ADA requirements for commercial facilities and places of public accommodation.

Council of Better Business Bureaus' Foundation

4200 Wilson Blvd., Suite 800, Arlington, VA 22203-1804

(703) 276-0100 (Voice) or (703) 247-3668 (TDD)

Through its network of 177 Better Business Bureaus, will educate small and medium-sized business members on their obligations as public accommodations under Title III of the ADA. Will also provide specialized resources and training in ADA alternative dispute resolution. In collaboration with the Disability Rights Education and Defense Fund (DREDF) and Barrier Free Environments (BFE), will conduct meetings with business and disability groups, and develop and disseminate industry-specific business "advisories", technical assistance guidelines for conducting ADA seminars, and instructional options for dispute resolution managers.

Disability Rights Education and Defense Fund (DREDF)

2212 Sixth St., Berkeley, CA 94710

ADA Hotline: (800) 466-4ADA (Voice\TDD)
(415) 644-2555 (Voice) or (415) 644-2625 (TDD)

Has established a telephone information line to answer ADA questions (emphasis on Titles II and III) and respond to requests for ADA materials. Will also conduct a seminar to train regional community-based representatives as technical assistance specialists to assist individuals with rights and responsibilities under the ADA and provide further training and resources for groups nationwide.

Center for Health Research

Eastern Washington University

MS-10, Hargreaves 217, Eastern Washington University,
Cheney, WA 99004-2415
(509) 359-6567

Will produce eight videotapes, accompanying printed materials, and a videotaped public service announcement to serve as training and resource materials for use by daycare centers. Will distribute materials nationally to daycare provider/trainers, and will conduct training for daycare providers nationwide.

Food Marketing Institute

1750 K St., N.W., Suite 700, Washington, D.C. 20006
(202) 452-8444

In conjunction with the National Center for Access Unlimited, will disseminate ADA information to grocery-chain members, conduct training seminars, publish an ADA compliance manual, and produce and staff an ADA exhibit at the Food Marketing Institute's convention in May 1992.

Foundation on Employment and Disability
3820 Del Amo Blvd, #201, Torrance, CA 90503
(213) 214-3430

Through multilingual toll-free information lines, pamphlets, articles in local publications, and presentations to community organizations, will provide written and oral information on the ADA that is understandable, linguistically and culturally, to minority communities in Los Angeles, Orange County, and San Francisco, California.

Institute for Law and Policy Planning
P.O. Box 5137, Berkeley, CA 94705
(415) 486-8352

Will produce a 30-minute broadcast-quality video and a 10 minute video on readily achievable barrier removal in places of public accommodation. Both videos will be available at the ADA Regional Disability and Business Technical Assistance Centers and other technical assistance and training projects.

National Association of Protection and Advocacy Systems
900 2nd St., N.E., Suite 211, Washington, D.C. 20002
(202) 408-9518 (Voice) or (202) 408-9521 (TDD)

Will conduct three regional "train-the-trainer" seminars that will focus on nonlitigatory dispute resolution techniques, self advocacy, and voluntary compliance. Will provide funding to twelve state Protection and Advocacy systems that will conduct statewide training. Will provide materials on ADA to national network of Protection and Advocacy service centers and Client Assistance Programs to provide direct technical assistance.

ADA Clearinghouse and Resource Center
National Center for State Courts
300 Newport Ave., Williamsburg, VA 23185
(804) 253-2000

Will disseminate information on ADA compliance to State and

local court systems. Will develop a diagnostic checklist, strategies for compliance specifically relevant to State and local courts, and a model curriculum for use in the education of future judges and court administrators.

**National Conference of States on Building
Codes and Standards**

505 Huntmar Park Dr., Suite 210, Herndon, VA 22070
(703) 437-0100

In conjunction with the Paralyzed Veterans of America (PVA), will promote the certification of State codes for equivalency with ADA standards, and encourage the development of alternative dispute resolution procedures within the existing State regulatory framework. Will promote voluntary compliance with the new construction and alterations requirements of the ADA, develop models for certification and dispute resolution, and hold a national seminar on the ADA, certification, and appeal and complaint procedures.

**Information Access Project
National Federation of the Blind**

1800 Johnson St., Baltimore, MD 21230
(301) 659-9314

Will assist entities covered by the ADA in finding methods for converting visually displayed information, such as flyers, brochures, and pamphlets, to formats accessible to individuals who are visually impaired. Will also serve as a resource for other grantees who are required under the terms of their grants to provide materials in nonvisually accessible formats.

National Rehabilitation Hospital

102 Irving St., N.W., Washington, D.C. 20010
(202) 877-1000 (Voice) or (202) 877-1450 (TDD)

Through seminars and written materials, will provide information on the ADA to doctors, hospitals, health care facilities, and health care consumers. Will produce an accessibility checklist, a

compliance handbook for facility managers, and a brochure describing consumers rights to health care services as a part of these materials.

National Restaurant Association

1200 17th St., N.W., Washington, D.C. 20036-3097
(202) 331-5985

Will produce and distribute informational material, including a 15-minute videotape, to demonstrate ADA compliance methods for the food service industry. In conjunction with the National Center for Access Unlimited, will produce a booklet with specific self-inspection checklists, illustrative applications of ADA food service industry compliance techniques, and training for restaurant staff addressing barrier removal, alterations, new construction, communications, supportive attitudes, and dispute resolution. Will complete materials in time for the National Restaurant Association's May 1992 national convention.

Police Executive Research Forum

2300 M St., N.W., Suite 910, Washington, D.C. 20037
(202) 466-7820

In collaboration with the Epilepsy Foundation of America and Eastern Kentucky University's Police Studies Department, will develop model policies and procedures for training police and sheriff's departments on the interaction of police with individuals with disabilities. Will develop information and training materials, including a videotape, brochure, and handbook, for distribution to organizations serving police and persons with disabilities.

National Council on Disability

800 Independence Ave., S.W., Suite 814, Washington, DC 20591
(202) 267-3846 (Voice) or (202) 267-3232 (TDD)

Required by Section 507 of the ADA to conduct a study and report on the effect of wilderness designations and wilderness land management practices on the ability of people with disabilities to use and enjoy the National Wilderness Preservation

Systems. Conducts **ADA Watch** to monitor the implementation of the ADA in employment, public accommodations, transportation, and telecommunications. Develops recommendations for federal disability policy. Provides ongoing advice to the President, the Congress, the Rehabilitation Services Administration, and other federal agencies on programs authorized by the Rehabilitation Act. Establishes general policies for reviewing the operation of the National Institute on Disability and Rehabilitation Research. Reviews and approves standards for Independent Living and Projects with Industry programs. **Publications:** Quarterly newsletter; Special reports on federal laws and programs affecting persons with disabilities, the ADA, and education for students with disabilities.

Centers for Disease Control

Public Health Service

U.S. Department of Health and Human Services

Mail Stop C09, 1600 Clifton Rd., N.E., Atlanta, GA 30333

(404) 639-2237

Publishes an annually updated list of infectious and communicable diseases transmitted through the handling of food in accordance with Section 103(d) of Title I. **Publications:** Diseases Transmitted Through the Food Supply.

Section Four

DIRECTORY OF ILLINOIS STATE RESOURCES

Americans with Disabilities Act Information, Technical Assistance and Enforcement:

Coalition of Citizens with Disabilities in Illinois
401 East Adams Street
Springfield, IL 62702
VOICE/TDD/TTY: 217-522-7016
VOICE/TDD/TTY: 800-433-8848

Centers for Independent Living
(See complete listing under Centers for Independent Living)

Equal Employment Opportunity Commission
1801 L Street, N.W.
Washington, DC 20507
VOICE: 800-669-4000
TTY/TDD: 800-800-3302

Chicago District Office
536 South Clark Street, Room 930-A
Chicago, IL 60605
VOICE: 312-353-2713
VOICE: 800-669-4000
TTY-TTD: 312-353-2421

St. Louis District Office
624 North Euclid Street, 5th Floor
St. Louis, MO 63108
VOICE: 314-425-6585
VOICE: 800-669-4000
TTY/TDD: 314-279-6547

Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554
VOICE: 202-632-7260
TTY/TDD: 202-632-6999

Great Lakes Disability and Business Technical
Assistance Center
1640 West Roosevelt Road
Chicago, IL 60608
VOICE/TTY/TDD: 800-949-4232

Illinois Department of Rehabilitation Services
VOICE/TTY/TDD: 1-800-ASK DORS
(1-800-275-3677)

Illinois Planning Council on Developmental
Disabilities
830 South Spring
Springfield, IL 62704
VOICE: 217-782-9696

Job Accommodation Network
918 Chestnut Ridge Road, Suite 1
P. O. Box 6080
Morgantown, WV 26506-6080
Accommodation Information:
VOICE/TTY/TDD: 800-526-7234
ADA Information:
VOICE/TTY/TDD: 800-232-9675

President's Committee on Employment of
People with Disabilities
1331 F Street, N.W.
Washington, DC 20004
VOICE: 202-376-6200
TTY/TDD: 202-376-6205

U.S. Department of Justice
Civil Rights Division
Office on the Americans with Disabilities Act
P. O. Box 66118
Washington, DC 20035-6118
VOICE: 202-514-0301
TTY/TDD: 202-514-0381

U.S. Department of Transportation
400 7th Street, S.W.
Washington, DC 20590
VOICE: 202-366-4390
TTY/TDD: 202-366-2979
TTY/TDD: 202-755-7687

DIRECTORY OF ILLINOIS STATE RESOURCES

(Continued)

Americans with Disabilities Act Financial Incentives and Information:

ADA Compliance Program for City of Chicago
Miriam Santos City Treasurer
Room 206 City Hall
Chicago, IL 60602
312-744-3360

Provides loans to Chicago-based businesses to
comply with the ADA

U.S. Small Business Administration
300 South Riverside Plaza, Suite 1975 South
Chicago, IL 60606
312-353-0359

Internal Revenue Service
U.S. Department of the Treasury
1111 Constitution Avenue, N.W.
Washington, DC 20224
VOICE: 202-566-3292
TTD: 202-829-4059

Provides information on tax credits and tax de-
ductions for businesses to comply with the ADA

Centers for Independent Living:

Access Living of Metropolitan Chicago
310 South Peoria
Chicago, IL 60607
VOICE: 312-226-5900
TDD: 312-226-1687

Central Illinois Center for Independent Living
614 West Glen
Peoria, IL 61614
VOICE: 309-682-3500
TDD 309-682-3567

DuPage County Center for Independent Living

400 East 22nd Street
Lombard, IL 60148
VOICE/TDD: 708-916-9666

Fox River Valley Center for Independent Living
730 B. West Chicago Street
Elgin, IL 60123
VOICE/TDD: 708-695-5818

Illinois-Iowa Center for Independent Living
P. O. Box 6156
Rock Island, IL 61204-6156
VOICE/TDD: 319-324-1460

Impact Center for Independent Living
2735 East Broadway
Alton, IL 62002
618-462-1411

Lake County Center for Independent Living
706 East Hawley
Mundelein, IL 60060
708-949-4440

Living Independently for Everyone (LIFE)
1328 East Empire
Bloomington, IL 51701
VOICE: 309-663-5433
TDD: 309-663-8806

Living Independently Now Center for
Independent Living
10 East Washington
Belleville, IL 62220
VOICE/TDD: 618-235-9988

Northwestern Illinois Center for Indepen-
dent Living
205 Second Avenue
Sterling, IL 61081
VOICE: 815-625-7860
TDD: 815-625-7863

DIRECTORY OF ILLINOIS STATE RESOURCES

(Continued)

Opportunities for Access
3300 Broadway
Mount Vernon, IL 62864
VOICE: 618-244-9212
TDD: 618-244-9575

Options Center for Independent Living
61 Meadowview Center
Kankakee, IL 60901
VOICE/TDD: 815-936-0100

Persons Assuming Control of Their Environment
(PACE)
Sunnycrest Mall
Urbana, IL 61801
VOICE: 217-344-5433
TDD: 217-344-5024

Progress Center for Independent Living
320 West Lake Street
Oak Park, IL 60302
VOICE: 708-524-0600
TDD: 708-524-0690

Regional Access and Mobilization Project (RAMP)
1040 North Second Street
Rockford, IL 61107
VOICE/TDD: 815-968-7567

Southern Illinois Center for Independent Living
100 North Glenview
P. O. Box 627
Carbondale, IL 62903
VOICE/TDD: 618-457-3318

Soyland Access to Independent Living (SAIL)
1800 East Lake Shore Drive
Decatur, IL 62521
217-362-9060

Springfield Center for Independent Living
426 West Jefferson
Springfield, IL 62702
VOICE/TDD: 217-523-2587

West Central Illinois Center for Independent Living
Durst Building
406 North 24th Street
Quincy, IL 62301
VOICE: 217-223-0400
TTY: 217-223-0475

Will/Grundy Center for Independent Living
2415 A West Jefferson Street
Joliet, IL 60435
VOICE: 815-729-0162
TDD: 815-729-2085

Section Five

OTHER ORGANIZATIONS WITH EXPERTISE IN SPECIFIC DISABILITIES

In addition to those listed in the previous section, the following organizations have expertise on specific disabilities, and may be able to provide useful information related to disabilities.

Affiliated Leadership League of and for the Blind of America
1101 17th St., N.W. Suite 803, Washington, DC 20036
(202) 833-0092

AIDS Action Council/National AIDS Network
2033 M St., N.W., Suite 802, Washington, DC 20036
(202) 293-2886

Alcohol & Drug Problems Association of North America
1555 Wilson Blvd., Suite 300, Arlington, VA 22209
(703) 875-8684

Alexander Graham Bell Association for the Deaf
3417 Volta Pl., N.W., Washington, D.C. 20007
(202) 337-5220 (Voice/TDD)

Alliance for Liberation of Mental Patients
1427 Walnut St., Haverford, PA 19102
(215) 525-4168

Alzheimer's Disease and Related Disorders Association, Inc.
919 North Michigan Ave., Suite 1000, Chicago, IL 60611
(312) 335-8700

American Academy for Cerebral Palsy and Developmental Medicine
P.O. Box 11086, 1910 Byrd Ave., Suite 100, Richmond, VA 23230
(804) 282-0036

American Anorexia/Bulimia Association, Inc.
418 East 76th St., New York, NY 10021
(212) 734-1114

American Association on Mental Retardation
1719 Kalorama Rd., N.W., Washington, D.C. 20009
(202) 387-1968

American Burn Association
4940 Eastern Ave., Baltimore, MD 21224
(800) 548-2876

American Chronic Pain Association
P.O. Box 850, Rocklin, CA 95677
(916) 632-0922

American Cleft Palate Association
1218 Grandview Ave., Pittsburgh, PA 15211
(412) 481-1376

American Deafness and Rehabilitation Association
P.O. Box 55369, Little Rock, AR 72225
(501) 663-7074 (Voice/TDD)

American Diabetes Association
1660 Duke St., Alexandria, VA 22314
(703) 549-1500

American Heart Association
7272 Greenville Ave., Dallas, TX 75231
(214) 373-6300

American Liver Foundation
1425 Pompton Ave., Cedar Grove, NJ 07009
(201) 256-2550

American Lung Association
1740 Broadway, New York, NY 10019
(212) 315-8700

American Lupus Society
3914 Del Amo Blvd., Suite 922, Torrance, CA 90503
(213) 542-8891 or (800) 331-1802

American Narcolepsy Association
(415) 788-4793

American Orthotic and Prosthetic Association

1650 King St., Suite 500, Alexandria, VA 22314
(703) 836-7116

American Paralysis Association

500 Morris Ave., Springfield, NJ 07081
(201) 379-2690

American Parkinson Disease Association

60 Bay St., Staten Island, NY 10301
(718) 981-8001

American Tinnitus Association

P.O. Box 5, Portland, OR 97207
(503) 248-9985

Amyotrophic Lateral Sclerosis Association

21021 Ventura Blvd., Suite 321, Woodland Hills, CA 91364
(818) 340-7500 or (800) 782-4747

Association for Education and Rehabilitation of the Blind and Visually Impaired

206 North Washington St., #320, Alexandria, VA 22314
(703) 548-1884

The Association for Persons with Severe Handicaps (TASH)

1600 Prince St., Suite 115, Alexandria, VA 22314
(703) 683-5586 (Voice/TDD)

Better Hearing Institute

5021B Backlick Rd., Annandale, VA 22003
(703) 642-0580 (Voice) or (800) 327-9355 (Voice/TDD)

Blinded Veterans Association

477 H St., N.W., Washington, D.C. 20001
(202) 371-8880

Braille Institute of America

741 North Vermont Ave., Los Angeles, CA 90029
(213) 663-1111 (Voice/TDD)

Cooley's Anemia Foundation

105 East 22nd St., Suite 911, New York, NY 10010
(212) 598-0911

Cornelia deLange Syndrome Foundation

60 Dyer Ave., Collinsville, CT 06022
(203) 693-0159 or (800) 753-2357

Council of Citizens with Low Vision International

1400 North Drake Rd., #218, Kalamazoo, MI 49006
(616) 381-9566

Cystic Fibrosis Foundation

6931 Arlington Rd., Bethesda, MD 20814
(301) 951-4422 or (800) 344-4823

Glaucoma Foundation

310 East 14th St., New York, NY 10003
(212) 260-1000

Huntington's Disease Society of America

140 West 22nd St., 6th Floor, New York, NY 10011
(212) 242-1968

Hypoglycemia Association, Inc.

2643 Liberty Parkway, Baltimore, MD 21222
(202) 544-4044

Immune Deficiency Foundation

P.O. Box 586, Columbia, MD 21045
(410) 461-3127

International Association of Laryngectomees

c/o American Cancer Society
1599 Clifton Rd., N.E., Atlanta, GA 30329-4251
(404) 320-3333

International Polio Network

5100 Oakland Ave., #206, St. Louis, MO 63110
(314) 534-0475

International Rett Syndrome Association

8511 Rose Marie Dr., Fort Washington, MD 20744

(301) 248-7031

Joseph P. Kennedy, Jr. Foundation

1350 New York Ave., N.W., Suite 500, Washington, D.C. 20005

(202) 393-1250

Learning Disability Association of America

4156 Library Rd., Pittsburgh, PA 15234

(412) 341-1515

Lupus Foundation of America

4 Research Pl., Suite 180, Rockville, MD 20850

(301) 670-9292 or (800) 558-0121

Macular Foundation

210 East 64th St., New York, NY 10021

(212) 605-3719 or (800) 622-8524

March of Dimes Birth Defects Foundation

1275 Mamaroneck Ave., White Plains, NY 10605

(914) 428-7100

Mental Health Policy Resource Center

1730 Rhode Island Ave., N.W., Washington, D.C. 20036

(202) 872-9141

Muscular Dystrophy Association

3561 East Sunrise Dr., Tuscon, AZ 85718

(602) 529-2000

Myasthenia Gravis Foundation

53 West Jackson Blvd., Suite 660, Chicago, IL 60604

(312) 427-6252 or (800) 541-5454

National Alliance for the Mentally Ill
2101 Wilson Blvd., Suite 302, Arlington, VA 22201
(703) 524-7600 or (800) 950-NAMI

**National Arthritis and Musculoskeletal and Skin Diseases
Information Clearinghouse**
P.O. Box AMS, 9000 Rockville Pike, Bethesda, MD 20890 (301) 495-4484

National Association for Sickle Cell Disease, Inc.
3345 Wilshire Blvd., Suite 1106, Los Angeles, CA 90010
(213) 736-5455 or (800) 421-8453

The National Association for the Craniofacially Handicapped
P.O. Box 11082, Chattanooga, TN 37401
(615) 266-1632

National Association for Visually Handicapped
22 West 21st St., New York, NY 10010
(212) 889-3141

National Association of Anorexia Nervosa and Associated Disorders
P.O. Box 7, Highland Park, IL 60035
(708) 831-3438

National Association of the Deaf
814 Thayer Ave., Silver Spring, MD 20910
(301) 587-1788 (Voice) or (301) 587-1789 (TDD)

National Ataxia Foundation
750 Twelve Oaks Center, 15500 Wayzata Blvd., Wayzata, MN 55391
(612) 473-7666

National Burn Victim Foundation
32-34 Scotland Rd., Orange, NJ 07050
(201) 676-7700

National Center for Learning Disabilities
99 Park Ave., New York, NY 10016
(212) 687-7211

National Center for Stuttering

200 East 33rd St., New York, NY 10016
(800) 221-2483

National Chronic Pain Outreach Association, Inc.

7979 Old Georgetown Rd., Suite 100, Bethesda, MD 20814-2429
(301) 652-4948

National Council on Alcoholism and Drug Dependence

12 West 21st St., New York, NY 10010
(212) 206-6770

National Digestive Diseases Information Clearinghouse

Box NDDIC, 9000 Rockville Pike, Bethesda, MD 20892
(301) 468-6344

National Foundation for Facial Reconstruction

317 East 34th St., New York, NY 10016
(212) 263-6656 or (800) 422-FACE

National Gaucher Foundation

19241 Montgomery Village Ave., Suite E21, Gaithersburg, MD 20879
(301) 990-3800

National Hemophilia Foundation

The Soho Building, 110 Green St., Suite 303, New York, NY 10012
(212) 219-8180

National Industries for the Severely Handicapped

2235 Cedar Ln., Vienna, VA 22182
(703) 560-6800 or (703) 560-6512 (TDD)

National Information Center for Orphan Drugs and Rare Diseases

P.O. Box 1133
Washington, DC 20013-1133
(800) 456-3505

National Kidney Foundation

2 Park Ave., New York, NY 10016
(212) 889-2210

National Lymphedema Network

2211 Post St., Suite 404 San Francisco, CA 94115
(800) 541-3259

National Marfan Foundation

382 Main St., Port Washington, NY 11050
(516) 883-8712 or (800) 8-MARFAN

National Mental Health Consumers Association

311 South Jupiter St., Rm. 902, Philadelphia, PA 19107
(215) 735-2465

National Myoclonus Foundation

845 Third Ave., New York, NY 10022
(212) 758-5656

National Network of Learning Disabled Adults

North 82nd St., Suite F2, Scottsdale, AZ 85257
(602) 941-5112

National Neurofibromatosis Foundation

141 Fifth Ave., Suite 7-S, New York, NY 10010
(212) 460-8980 (Voice/TDD) or (800) 323-7938 (Voice)

National Organization for Rare Disorders, Inc.

P.O. Box 8923, New Fairfield, CT 06812-1783
(203) 746-6518 (Voice) or (800) 999-NORD (Voice/Electronic Mail)

National Osteoporosis Foundation

2100 M St., N.W., Suite 602, Washington, DC 20037
(202) 223-2226

National Parkinson Institute

1501 N.W. 9th Ave., Miami, FL 33136
(305) 547-6666 or (800) 327-4545

National Retinitis Pigmentosa Foundation

1401 Mt. Royal Ave., Fourth Fl., Baltimore, MD 21217
(410) 225-9400 (Voice) or (410) 225-9409 (TDD) or (800) 683-5555 (Voice)

The National Scoliosis Foundation

72 Mount Auburn St., Watertown, MA 02172
(617) 926-0397

National Stroke Association

300 East Hampton Ave., #240, Englewood, CO 80110
(303) 762-9922 or (800) 787-6537

National Stuttering Project

4601 Irving St., San Francisco, CA 94122
(415) 566-5324

National Tay-Sachs and Allied Diseases Association, Inc.

2001 Beacon St., Brookline, MA 02146
(617) 277-4463

National Tuberous Sclerosis Association, Inc.

8000 Corporate Dr., Landover, MD 20785
(800) 225-6872 (301) 459-9888

Orton Dyslexia Society

Chester Bldg., 8600 LaSalle Rd., Suite 382 Baltimore, MD 21204-6020
(301) 296-0232

Osteogenesis Imperfecta Foundation, Inc.

5005 West Laurel St., Suite 210, Tampa, FL 33607-3836
(813) 282-1161

Recovery, Inc.

The Association of Nervous and Former Mental Patients

802 North Dearborn St., Chicago, IL 60610
(312) 337-5661

Sensory Access Foundation

395 Sherman Ave., Suite 2, Palo Alto, CA 94306
(415) 329-0430 (Voice) or (415) 329-0433 (TDD)

Sertoma International/Sertoma Foundation

1912 East Meyer Blvd., Kansas City, MO 64132
(816) 333-8300

Short Stature Foundation

P.O. Box 5356, Huntington Beach, CA 92165-5356
(714) 474-4554

**Rehabilitation Engineering Center at
Smith-Kettlewell Eye Research Institute**

2232 Webster St., San Francisco, CA 94115
(415) 561-1619 or (415) 561-1610 (Fax)

Speech Foundation of America

5139 Klinge St., N.W., Washington, D.C. 20016
(202) 363-3199

Spinal Cord Society

Wendell Rd., Fergus Falls, MN 56537
(218) 739-5252

Spinal Network

P.O. Box 4162, Boulder, CO 80306
(303) 449-5412

Tourette Syndrome Association

42-40 Bell Blvd., Bayside, NY 11361
(718) 224-2999

United Leukodystrophy Foundation

2304 Highland Dr., Sycamore, IL 60178
(815) 895-3211 or (800) 728-5483

United Ostomy Association

36 Executive Park, Suite 120, Irvine, CA 92714
(714) 660-8624

United Parkinson Foundation

360 West Superior St., Chicago, IL 60610
(312) 664-2344

United Scleroderma Foundation

P.O. Box 399, Watsonville, CA 95077-0399
(408) 728-2202 or (800) 722-HOPE

Section Six

TITLE I VIDEOS*

The following list represents videos with primarily a Title I, employment focus. Videos on particular disabilities and disability etiquette are not included in this list.

IAM CARES. *Hiring Individuals with Disabilities. . .it's Good Business.* Contact your regional NIDRR - DBTAC at 800-949-4232 (voice/TTY) for price and availability. 28 minutes. Open/closed captioned.

Mainstream, Inc. (1993). *Reasonable Accommodation of the Enabling Kind.* Mainstream, Inc., 3 Bethesda Metro Center, Suite 830, Bethesda, Md. 20814. Telephone 301-654-2400 (voice/TTY). 20 minutes. \$109.95. Open/closed captioned.

MTI Film and Video (1991). *The Americans with Disabilities Act: New Access to the Workplace.* With guidebook. MTI Film and Video, 420 Academy Drive, Northbrook, Ill. 60062. 800-621-2131 Extension 2421 (voice/TTY). Open Captioned. 39.5 minutes. \$595.

National Easter Seals Society (1992). *Nobody is Burning Wheelchairs.* National Easter Seals Society, 70 East Lake Street, 15th floor Chicago, Ill. 60601. Telephone 312-726-6200 (voice). 312-726-4258 (TTY). 15 minutes. \$35. Open/closed captioned.

National Easter Seals Society. *Part of the Team.* National Easter Seals Society, 70 East Lake Street, 15th floor, Chicago, Ill. 60601. Telephone 312-726-6200 (voice). 312-726-4258 (TTY). 17.5 minutes. \$15. Open/closed captioned.

Program Development Association (1991). *A Challenge to America: The Americans with Disabilities Act.* With handbook. Distributor: RPM Press, Inc., P.O. Box 31483, Tucson, Ariz. 85751. Telephone 602-886-1990 (voice/TTY). 36 minutes. \$142.95. Open/closed captioned.

Quality Media Resources (1992). *The ADA on Video-Focusing on Ability.* Quality Media Resources, P.O. Box 1706, Bellevue, Wash. 98009-1706. Telephone 800-800-5129 (voice/TTY). 25 minutes. \$395. Open/closed captioned.

Quality Media Resources (1992). *The ADA on Video-Reasonable Accommodations.* Quality Media Resources, P.O. Box 1706, Bellevue, Wash. 98009-1706. 800-800-5129 (voice/TTY). 57 minutes. \$395. Open/closed captioned.

*This list was prepared by P. J. Partlow, for the Northeast Disability and Business Technical Assistance Center, Cornell University, New York State School of Industrial and Labor Relations, Program on Employment and Disability.

MODULE III

TRAINER'S NOTES

Trainer's Outline and Transparencies

Developed by the staff and faculty of Cornell University's *Program on Employment and Disability*

The compilation of these materials was made possible by a grant from the Illinois Planning Council on Developmental Disabilities in collaboration with the Great Lakes Disability and Business Technical Assistance Center at the University of Illinois at Chicago (Grant No. 9411) to Cornell University's Program on Employment and Disability to serve as an *ADA Materials Development and Training Project*.

Program on Employment and Disability

Unit Time Allotment

UNIT	UNIT TITLE	TIME ALLOTMENT
1	Evolution and Trends in the Disability Movement	45 minutes
2	Overview of the ADA	15 minutes
3	Overview of Title I	60 minutes
4	Reasonable Accommodation Process	60 minutes
5	Providing Supports as Part of the Accommodation Process	60 minutes
6	Overview of Title II	45 minutes
7	Overview of Title III	30 minutes
8	Summary and Conclusions	15 minutes

Time allotments are given by way of guidance if the trainer attempts to cover all content within a one-day time frame. Be aware that to keep within time frame, some examples will have to be excluded from the content to be covered.

Audio-Visual Equipment Required by Unit

UNIT	UNIT TITLE	AV REQUIRED
1	Evolution and Trends in the Disability Movement	A/B/C/D
2	Overview of the ADA	A/B
3	Overview of Title I	A/B
4	Reasonable Accommodation Process	A/B/E
5	Providing Supports as Part of the Accommodation Process	A/B/C
6	Overview of Title II	A/B
7	Overview of Title III	A/B
8	Summary and Conclusions	A/B/C/D

KEY	
A	Overhead Projector
B	Screen
C	Flip Chart
D	Transparency Markers
E	TV/VCR

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2	Overview of the ADA	16
3	Overview of Title I	25
4	Reasonable Accommodation Process	70
5	Providing Supports as Part of the Accommodation Process	88
6	Overview of Title II	104
7	Overview of Title III	135

INTRODUCTION

"Getting Started" Checklist

5
min

Prior to beginning the training, complete the following checklist to ensure that participants have been adequately oriented to the training environment and have been provided with training resources.

- ✓ Greet participants as they enter and introduce self.
- ✓ Assist participants in locating a seat, finding washrooms and helping themselves to refreshments.
- ✓ If using name tags or tent cards give participants instructions as they enter.
- ✓ Draw a "Welcome Sign" on the board or flip chart acknowledging the name of the training program.
- ✓ Try to facilitate discussion / dialogue amongst participants to "warm-up" the training environment. Use leading questions like:

Did anyone have trouble finding a parking spot?

What was the traffic like on Route ____ coming into town?

How long was your drive in today?

What interested you about today's training program?

Have you ever attended training here before?

- ✓ Three minutes prior to the scheduled start of the training pass around a sign up sheet and any other documenting forms you may need to have completed. Tell participants that you will begin shortly if anyone needs a last minute break or coffee warm-up.
- ✓ At the designated start time, begin the program by introducing yourself and giving a brief overview of the program. If time allows, afford each participant a chance to introduce themselves, their affiliation, where they are from, and maybe one or two learning objectives they have for the day.
- ✓ Document stated learning objectives on the flip chart, board or piece of paper to ensure coverage during the course of the training program.
- ✓ Familiarize participants with the location of the washrooms and break refreshments.
- ✓ Before beginning Unit One, remind participants that they will have needed to sign in and completed any other forms designated by the trainer or training entity.

UNIT ONE

EVOLUTION AND TRENDS IN THE DISABILITY MOVEMENT

EVOLUTION AND TRENDS IN THE DISABILITY MOVEMENT

Transition from Institutions to Community

20
min

1A

NOTE: Explain to participants that all materials to be covered and transparencies to be used are excerpted directly from the text of the Participant Manual which they received upon entering.

Using **Transparency #1A**, explain to participants that over the last century we have seen a major evolution in the way individuals with disabilities are perceived, interacted with, treated and supported. From the late 1800's and the reform model to the medical and development model of the 1950's and 70's we now enter the functional supports era of service and supports delivery for individuals with disabilities. As the models have evolved and fostered societal acceptance of disability, individuals with disabilities have been afforded the opportunity to fill their roles in society as productive citizens, the accomplishments of people with disabilities cannot be refuted.

Further points to discuss:

- ☐ People with disabilities now play major community roles, such as: government officials; laborers; executives; public servants; moms; dads; friends; clergy; and the list goes on.
- ☐ Medical and expert models of rehabilitation have focused on "decreasing perceived deficits" through "systems control".
- ☐ Institutions do not necessarily have to be physical facilities, often community-based programs are "institutional" in nature based on the rigidity of these programs to move outside "programmatic procedures and policies".
- ☐ The functional supports model has built upon the past successes in integrated living and employment options to ensure persons with disabilities person-centered services and supports focusing on "natural connectedness" to ones community

1B

Transitioning to **Transparency #1B**, discuss that the evolution in rehabilitation service delivery has been strongly supported by federal mandates set forth in several key pieces of legislation including the: Individuals with Disabilities Education Act with its increased emphasis on inclusion and effective transition planning; the Rehabilitation Act of 1973 as amended in 1992 with its increased emphasis on choice and empowerment; and the Americans with Disabilities Act of 1990 ensuring community living and working access for all American Citizens regardless of disability.

Unit One

Referencing page 2 of the Participant Manual, assist participants in gaining a basic understanding of the functional supports model by reviewing the questions outlined below:

- What does the person want?
- What are the persons dreams and aspirations?
- What is the person good at?
- What kinds of things does the person dislike?
- How does the person define quality?
- What does the person need to achieve desired outcomes?
- Where does the person want to live?
- Where does the person want to work?
- What types of family and social connections does the person desire?
- What types of experiences has the person had to assist them in answering the above?

Explain to participants that the functional supports model is based on creating supports and services customized to the individual. The functional supports era holds many implications, especially when paired with person-centered service delivery and the values base and supports defined within the ADA. Emphasize that it is important for participants and other key players in the disability arena to understand the differences between the developmental and functional supports model.

Further Points To Discuss:

- ☐ *Understanding the differences in the two models will assist the individual in gaining an understanding of "where" service providers "stand" in their own evolution of the services and supports they provide to individuals with disabilities.*
- ☐ *This will further assist the individual in making informed decisions regarding where to access services and how to use civil rights legislation afforded them in the ADA to access their communities.*

Program on Employment and Disability

Unit One

Developmental / Functional Supports Model Comparison

5
min

1C

Using **Transparency #1C**, review the Comparison Chart of the Developmental and Functional Support Model. Ask participants to summarize what they perceive to be the major differences in the two models.

NOTE: It should become evident through their comments that the functional supports model promotes the access of individuals with disabilities to live, work and play in their communities as productive citizens. This facilitates a movement away from our current "community-based system" which falls short of true integration and inclusion of persons with disabilities into their communities.

Person-Centered, Capacity-Based Services and Supports

7
min

1D

Explain to participants that one of the major differences that sets apart service and supports delivery in the 1900's from the '70's is the emphasis on redefining quality considerations. This movement toward quality redesign did not begin within the disability and/or rehabilitation sector but rather a national initiative within the world of business focusing on total quality management or continuous quality improvement. Using **Transparency #1D** discuss the basic assumptions outlined below:

- Identify services and supports for delivery which are of interest and preferred by the customer;
- Develop common goals toward delivery of these identified services and supports;
- Empower personnel to achieve these goals;
- Empower citizens instead of taking care of them (consumers v. clients); and
- Customer satisfaction will be dictated by desired and achieved outcomes.

Further Points To Discuss:

- ☐ *Focus on continuous quality improvement cannot be simply set forth in mission statements. It needs to be lived and practiced on a daily basis.*
- ☐ *The TQM initiative further defines for us that in order to have the disability/rehabilitation field impacted, services and supports delivered must be selected, driven and directed by the recipient of the services*
- ☐ *Person-centered services are just that. Services and supports designed and implemented based on the preferences, interests, capacities and support needs of the person being served.*
- ☐ *A variety of methods for designing and implementing these type of person-centered services and supports exist with most placing a heavy emphasis on team planning.*

Unit One

1E

□ *Person-centered and capacity-based services and supports have at their heart a core set of values which drive their delivery, including the following (Transparency #1E):*

- *recognition of individuality*
- *presumption of inclusion and integration*
- *individual capacity*
- *personal competence*
- *person-specific indices of satisfaction*
- *quality of life features*
- *individual interdependence*
- *environmental causation of behavior*
- *cultural context*
- *holistic participation*
- *community connectedness*
- *dignity of risk*
- *personal empowerment*
- *other values cherished in American Society*

Critical Values in Supporting People with Disabilities

10
min

1F

Ask participants why they feel it is so important to be connected to their community. Explain that with the passing of the ADA, the emphasis on full-inclusion, community integration and accessibility have been set forth for the same purposes. The ADA establishes a public law which stipulates the unlawfulness of discriminating against individuals with disabilities in a variety of settings and activities of daily life and promotes the importance of our connectedness to our individual communities and American society.

Using Transparency #1F, review the *Findings and Purposes* of the ADA as set forth by the Congress. Explain to participants that these Findings cited the lack of equity for person with disabilities to access and be connected to their communities. Emphasize the following key pieces:

Congress found --

- (1) Some **43,000,000** Americans have one or more physical or mental disabilities, and this number is increasing as the population as a whole is growing older;
- (2) Historically, society has tended to **isolate and segregate** individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem;

Unit One

- (3) **Discrimination** against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services;
- (4) Unlike individuals who have experienced discrimination on the basis of race, color, sex, national origin, religion, or age, individuals who have experienced discrimination on the basis of disability have often had **no legal recourse** to redress such discrimination;
- (5) Individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of **architectural, transportation, and communication barriers**, overprotective rules and policies, failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities;
- (6) Census data, national polls, and other studies have documented that people with disabilities, as a group, occupy an inferior status in our society, and are severely **disadvantaged socially, vocationally, economically, and educationally**;
- (7) Individuals with disabilities are a discrete and insular minority who have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of **political powerlessness** in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society;
- (8) The Nation's proper goals regarding individuals with disabilities are to assure **equality of opportunity, full participation, independent living, and economic self-sufficiency** for such individuals; and
- (9) The continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and **costs the United States billions of dollars** in unnecessary expenses resulting from dependency and nonproductivity.

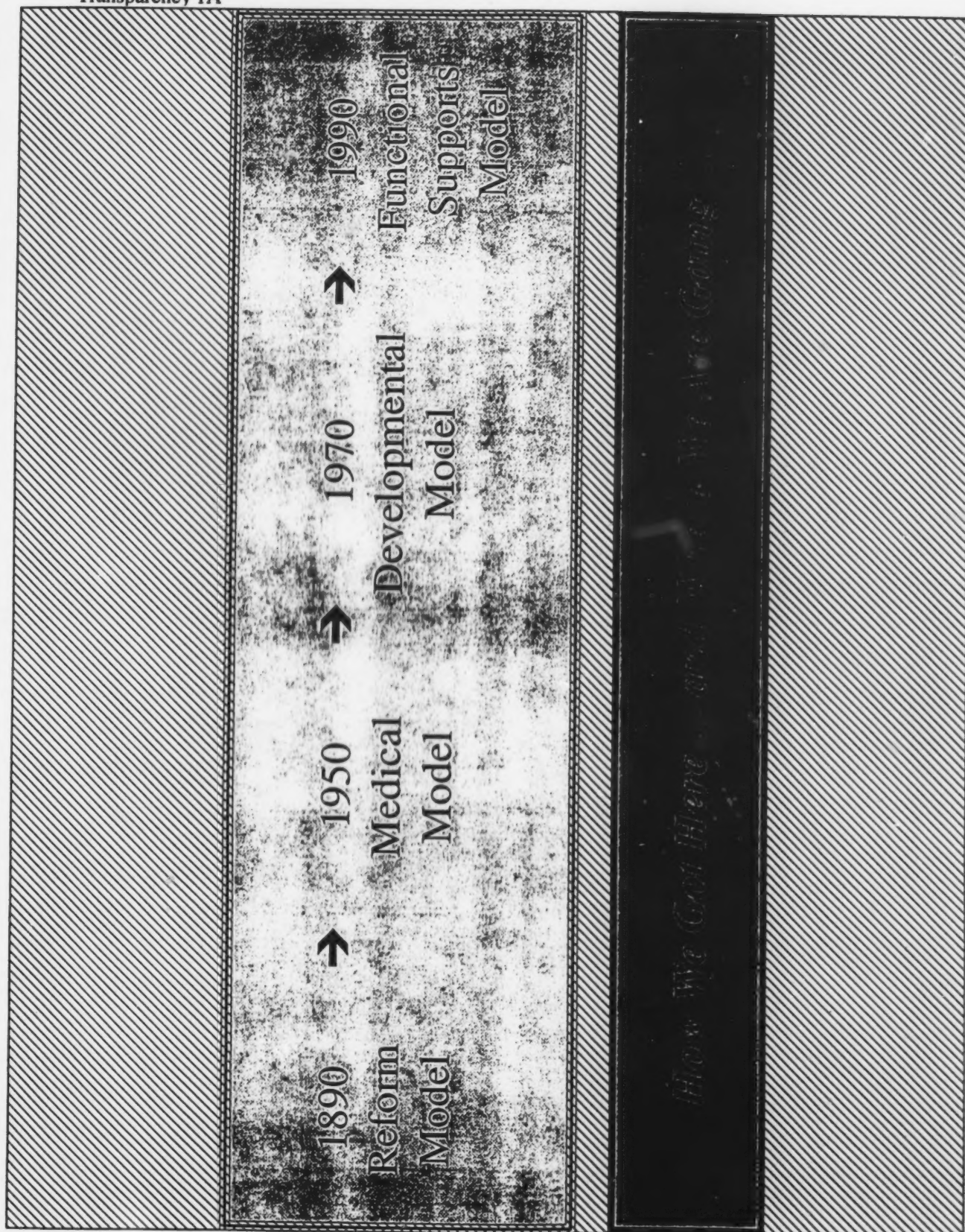
Unit One

Transition to Next Unit

3
min

Referencing page six of the Participant Manual, close by explaining that these Findings lay a ground work which facilitate the development and evolution of the following critical values necessary to effectively support persons with disabilities in their movement from institutions to community:

- Inclusion and Integration
- Independent Living
- Equality of Opportunity
- Full Participation
- Economic Self-Sufficiency
- Legal Recourse



Transparency 1B

FEDERAL LEGISLATION DRIVING THE EVOLUTION OF THE DISABILITY FIELD

- ☐ Individuals with Disabilities Education Act
- ☐ Rehabilitation Act of 1973 as Amended in 1992
- ☐ Americans with Disabilities Act of 1990

Transparency IC

DEVELOPMENTAL / FUNCTIONAL SUPPORTS MODEL COMPARISON

Developmental Model	Functional Supports Model
Development of Pre-requisites	"Pre" Means Never
Continuum-Focused	Array of Choices Based on Preferences
Deficit-Based	Capacity-Based
Behavior Must Be Controlled	Environmental Causation
Constant Services	Services and Supports As Needed
System-Centered	Person-Centered
Maximize Disability	Minimize Disability Through Capacity
Regulations Determine Quality	Person Determines Quality
Controlled	Competitive
Congregate Care	Inclusion
Fit to Program	Fit to Person

Transparency ID

QUALITY REDESIGN INITIATIVE

- √ Identify services and supports for delivery which are of interest and preferred by the customer
- √ Develop common goals toward delivery of these identified services and supports
- √ Empower personnel to achieve these goals
- √ Empower citizens instead of taking care of them (consumers v. clients)
- √ Customer satisfaction will be dictated by desired and achieved outcomes.

CORE SET OF VALUES

- Recognition of individuality
- Presumption of inclusion and integration
- Individual capacity
- Personal competence
- Person-specific indices of satisfaction
- Quality of life features
- Individual interdependence
- Environmental causation of behavior
- Cultural context
- Holistic participation
- Community connectedness
- Dignity of risk
- Personal empowerment
- Other values cherished in American Society

FINDINGS AND PURPOSES OF THE ADA

Congress finds that --

- (1) Some **43,000,000** Americans have one or more physical or mental disabilities, and this number is increasing as the population as a whole is growing older;
- (2) Historically, society has tended to **isolate and segregate** individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem;
- (3) **Discrimination** against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services;
- (4) Unlike individuals who have experienced discrimination on the basis of race, color, sex, national origin, religion, or age, individuals who have experienced discrimination on the basis of disability have often had **no legal recourse** to redress such discrimination;

Transparency 1F Continued (2 of 3):

- (5) Individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of **architectural, transportation, and communication barriers**, overprotective rules and policies, failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities;
- (6) Census data, national polls, and other studies have documented that people with disabilities, as a group, occupy an inferior status in our society, and are severely **disadvantaged socially, vocationally, economically, and educationally**;
- (7) Individuals with disabilities are a discrete and insular minority who have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of **political powerlessness** in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society;
- (8) The Nation's proper goals regarding individuals with disabilities are to assure **equality of opportunity, full participation, independent living, and economic self-sufficiency** for such individuals; and

Transparency 1F Continued (3 of 3):

- (9) The continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and **costs the United States billions of dollars** in unnecessary expenses resulting from dependency and nonproductivity.

UNIT TWO

OVERVIEW OF THE AMERICANS WITH DISABILITIES ACT OF 1990

OVERVIEW OF THE ADA OF 1990

Summary of the ADA

12
min

Explain to participants that the federal Americans with Disabilities Act of 1990 (ADA) is one of the most sweeping pieces of landmark legislation for persons with disabilities since the Rehabilitation Act of 1973. The law prohibits discrimination against qualified persons with disabilities in employment, government programs and services, public accommodations and services and in telecommunications.

Further Points To Discuss:

- ☐ *This piece of legislation is not an affirmative action law, but rather sets forth the federal guidelines prohibiting discrimination against individuals with disabilities which are designed to guarantee qualified persons with disabilities a "level playing field" in all of the areas listed above.*
- ☐ *The ADA promotes the concept of full-inclusion for individuals with disabilities, and stresses empowerment, dignity, respect, and independence.*
- ☐ *This guide has been developed to aid people in understanding not just their responsibilities to individuals with disabilities, but also the rights with which every person with a disability is endowed.*
- ☐ *The understanding of rights as well as responsibilities is critical because not only do people in general have a unique opportunity to empower those persons with disabilities with whom they interact, but also because everyone is potentially eligible to join the disability constituency.*

- 2A Using Transparency #2A, provide participants with a general description of each of the respective five titles of the ADA as outlined below:

Title I—Employment. Requires that people with disabilities have an equal opportunity to compete for jobs for which they are qualified. Employers must make prescreening and hiring practices accessible and make reasonable accommodations so that qualified individuals with disabilities can perform the essential functions of their jobs in a reasonable manner, if the provision of such accommodations does not impose an undue hardship.

Title II—Public Service. States that no qualified person with a disability shall be denied the benefits or excluded from participation in services, programs, or activities of state and local governments. It parallels section 504, requiring non-discrimination in employment, program accessibility and equally effective communications.

Unit Two

Title III—Public Accommodations and Services. Prohibits discrimination on the basis of disability by private entities in places of public accommodation, requires that all new places of public accommodation and commercial facilities be designed and constructed so as to be readily accessible to and usable by persons with disabilities; that "readily achievable barrier removal" is undertaken in existing inaccessible public accommodations, and requires that examinations or courses related to licensing or certification for professional trade purposes be accessible to persons with disabilities.

Title IV—Telecommunications. Requires that interstate and intrastate telecommunications relay services be provided for individuals with hearing and speech impairments. It also contains an important provision requiring that any television public service announcement produced or funded in part by any agency or instrumentality of the federal government must include closed captioning of the verbal content of such public service announcements.

Title V—Miscellaneous Provisions. Includes several miscellaneous provisions which cover insurance and health benefit plans, technical assistance plans surrounding the ADA, minimum guideline standards to be assured by the Access Board, plan for accessibility of wilderness areas, language which amends the Rehabilitation Act of 1973, and alternative means of dispute resolution.

2B Using **Transparency #2B**, explain that the ADA provides civil rights protection to individuals with disabilities, similar to that provided to individuals on the basis of race, sex, national origin and religion. It guarantees equal opportunities for individuals with disabilities in the areas of:

- Employment
- State and local government services
- Public transportation
- Privately operated transportation available to the public
- Places of public accommodation
- Telephone services offered to the general public

Unit Two

2C Referencing earlier discussion and using **Transparency #2C**, review with participants basic information pertaining to other related civil rights legislation as follows:

Civil Rights Act (1957). The first civil rights bill since Reconstruction, PL 85-315 made it a federal crime to prevent persons from voting in federal elections and authorized the attorney general to bring suit when a person was deprived of his voting rights.

Civil Rights Act (1964). The most sweeping antibias law, PL 88-352 barred discrimination in employment on the basis of race, sex, religion, and national origin; in public accommodations and federally funded programs on the basis of race, color, religion, or national origin; and created the Equal Employment Opportunity Commission.

Voting Rights Act (1965). PL 89-110 authorized the appointment of federal examiners to register voters in areas found to have been discriminated against and strengthened penalties for those who interfered with others' right to vote.

Age Discrimination in Employment Act (1967). PL 90-202 prohibited job discrimination against workers or job applicants aged forty to sixty-five. It was amended in 1975 (PL 94-135) to bar age bias in federally assisted programs, and in 1986 (PL 99-592) to prohibit mandatory retirement in most jobs.

Fair Housing Act (1968). PL 90-284 prohibited discrimination on the basis of race, color, religion, or national origin in the sale or rental of most housing. It also included provisions to protect civil rights workers from injury or intimidation and provided for federal penalties for those convicted of rioting or encouraging others to do so.

Rehabilitation Act of 1973. Section 503 required that recipients of federal grants greater than \$2,500 institute affirmative action programs to hire and promote "qualified individuals with disabilities," where as Section 504 stated, "No otherwise qualified individuals with disabilities. . . shall, solely by reason of his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

Civil Rights Restoration Act (1988). Overriding President Reagan's veto, congress in PL 100-259 overturned a 1984 Supreme Court ruling that anti sex-discrimination provisions of the 1972 Education Act

Unit Two

Amendments applied only to the specific program or activity receiving federal aid and not to the entire institution. In reversing *Grove City College v. Bell*, Congress also specified that antibias provisions of three other laws applied to entire institutions if any segment received federal funding. The three were the 1964 Civil Rights Act, Section 504 of the 1973 Rehabilitation Act, and the 1975 Age Discrimination Act.

Fair Housing Act Amendments (1988) PL 100-430 gave the Department of Housing and Urban Development greater authority to enforce the 1968 law prohibiting housing bias against the handicapped and families with children.

Transition to Next Unit

3
min

2D

Explain to participants that prior to delving further into the actual components of the ADA it is important to understand how these key pieces of legislation have lead up to civil rights protection for persons with disabilities. Further supporting the underlying principles set forth in the ADA are the premises set forth in the Rehabilitation Act of 1973 as amended in 1992. Using **Transparency #2D**, review these premises as outlined below before reviewing the employment provision, Title I, of the ADA.

- Respect for individual dignity, personal responsibility, self-determination, and pursuit of a meaningful career, based on the informed choice of individuals with disabilities.
- Respect for privacy, rights and equal access of individual with disabilities.
- Inclusion, integration, and full-participation of individuals with disabilities.
- Support for the involvement of the family, advocates or authorized representatives, if desired, or requested by the individual with a disability.
- Support for individual and systemic advocacy and community involvement.

NOTE: Findings of the Amendments include the goals of providing individuals with disabilities the tools necessary to make informed choices and decisions and achieve equality of opportunity, full inclusion, and integration in society, employment, independent living, and economic and social self-sufficiency.

SUMMARY OF THE ADA

Title I—Employment. Requires that people with disabilities have an equal opportunity to compete for jobs for which they are qualified.

Title II—Public Service. States that no qualified person with a disability shall be denied the benefits or excluded from participation in services, programs, or activities of state and local governments.

Title III—Public Accommodations and Services. Prohibits discrimination on the basis of disability by private entities in places of public accommodation, requires that all new places of public accommodation and commercial facilities be designed and constructed so as to be readily accessible to and usable by persons with disabilities; that "readily achievable barrier removal" be undertaken in existing inaccessible public accommodations, and requires that examinations or courses related to licensing or certification for professional trade purposes be accessible to persons with disabilities.

Title IV—Telecommunications. Requires that interstate and intrastate telecommunications relay services be provided for individuals with hearing and speech impairments. It also contains an important provision requiring that any television public service announcement produced or funded in part by any agency or instrumentality of the federal government must include closed captioning of the verbal content of such public service announcements.

Title V—Miscellaneous Provisions. Includes several miscellaneous provisions which cover insurance and health benefit plans, technical assistance plans surrounding the ADA, minimum guideline standards to be assured by the Access Board, plan for accessibility of wilderness areas, language which amends the Rehabilitation Act of 1973, and alternative means of dispute resolution.

Transparency 2B

EQUAL OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES IN THE AREAS OF:

- ☐ Employment
- ☐ State and local government services
- ☐ Public transportation
- ☐ Privately operated transportation available to the public
- ☐ Places of public accommodation
- ☐ Telephone services offered to the general public

RELATED CIVIL RIGHTS LEGISLATION

- ☐ Civil Rights Act of 1957
- ☐ Civil Rights Act of 1964
- ☐ Voting Rights Act of 1965
- ☐ Age Discrimination in Employment Act of 1967
- ☐ Fair Housing Act of 1968
- ☐ Rehabilitation Act of 1973
- ☐ Civil Rights Restoration Act of 1988
- ☐ Fair Housing Act Amendments of 1988

PREMISES OF THE REHABILITATION ACT 1992 AMENDMENTS

- ☐ Respect for individual dignity, personal responsibility, self-determination, and pursuit of a meaningful career, based on the informed choice of individuals with disabilities.
- ☐ Respect for privacy, rights and equal access of individual with disabilities.
- ☐ Inclusion, integration, and full-participation of individuals with disabilities.
- ☐ Support for the involvement of the family, advocates or authorized representatives, if desired, or requested by the individual with a disability.
- ☐ Support for individual and systemic advocacy and community involvement.



UNIT THREE

OVERVIEW OF TITLE I

OVERVIEW OF TITLE I

ADA Employment Provisions and Key Definitions

2
min

3A

Using **Transparency 3A**, introduce program participants to each of these key concepts and definitions in the ADA employment provisions and explain that we will be exploring each of these topics in further detail:

- Covered entities under Title I
- Definition of disability
- What is meant by a qualified individual with a disability
- Areas covered for nondiscrimination
- What is meant by reasonable accommodation
- What is meant by undue hardship

Covered Entities Under Title I

2
min

3B

Using **Transparency 3B**, highlight the following definitions that relate to employer coverage in the ADA:

- Effective July 26, 1994, an employer is any person having fifteen or more employees
- Covered entities include private employers, state and local government agencies, and labor unions
- Exceptions to the coverage, are listed on the transparency

Definition of Disability

4
min

3C

General Definition. Using **Transparency 3C**, explain that the ADA is modeled after Section 504 of the Rehabilitation Act of 1973 and states what disability means with respect to an individual. **The general definition is a physical or mental impairment that substantially limits one or more major life activities of such individual. (PUT THIS OVERHEAD ASIDE, YOU WILL NEED TO USE IT AGAIN IN A FEW MINUTES)**

3D

Transition to **Transparency 3D**, give examples from the list of physiological, mental, and psychological disorders included.

3E

Using **Transparency 3E**, refer briefly to the concept "substantially limits," which is an individual's inability to perform an activity or a significant restriction in the conditions, manner, or duration of activity performance, when compared to an average person in the general population.

3F

Using **Transparency 3F**, provide participants with examples of major life activities.

Unit Three

- 3C Using Transparency 3C again, remind participants of the three prong definition of disability under the ADA.

Further points to discuss:

- ☐ Explain that the law also prohibits discrimination against an individual because he or she has a record of an impairment in his or her past, such as a person who has had a history of mental illness or has recovered from cancer.
- ☐ The third part of the definition provides that an individual regarded by an employer or other covered entity as having an impairment that substantially limits a major life activity is also a person protected under the ADA.

Explain the three different ways in which an individual may satisfy the definition of "being regarded as having a disability":

The individual may have an impairment that is not substantially limiting but is perceived by the employer or other covered entity as constituting a substantially limiting impairment

Example:

A person may have a mild depression that is controlled by medication, and is fired from her job as a secretary after her boss finds out about her use of medication. Even though this person does not have an impairment that substantially limits a major life activity, she is protected under the ADA because she is treated as if she does.

The individual may have an impairment that is only substantially limiting because of the attitudes of others toward the impairment

Example:

A man with a prominent facial scar is passed over for a promotion of a sales manager. A less-qualified person was hired for the position because the human resources person thought that customers may be disgusted by the looks of the sales manager because of that facial scar. The employer discriminated against him because he treated him as a person with a substantial limitation.

The individual may have no impairment but be regarded by the employer or other covered entity as having a substantially limiting impairment

Example:

A child is denied participation in a community recreational program because it is perceived that he may have a developmental disability. The child does not, but is treated as if he does.

Unit Three

3G *Exclusions from the Definition.* Using **Transparency 3G** and referring to pages 13 and 14 of the Participant Manual, briefly cover the following areas where the ADA does not protect people:

- Certain sexual disorders and sexual preferences
- Compulsive gambling, kleptomania, and pyromania
- Those engaged in the illegal use of prescription or other drugs, when the covered entity acts on the basis of such use

Review the last point on the transparency relating to current users of illegal drugs and mental impairments relating to illegal drugs. This is a perfect transition to the next section and transparency.

Drug and Alcohol Abuse

2
min

3H Using **Transparency 3H**, explain that employers are permitted under the ADA to ensure that the workplace is free from the illegal use of drugs and the use of alcohol, and to comply with other federal laws and regulations regarding alcohol and drug use. At the same time, the ADA provides protection from discrimination for recovering drug addicts and alcoholics. Review the legal obligations in the overhead, explaining each point and giving examples if necessary.

Substantially Limits

2
min

Further Explanation of "Substantially Limits".

3I Using the language utilized in **Transparency 3I**, provide further guidance on what is meant by "substantially limiting":

- Several factors should be considered in determining whether an impairment is substantially limiting: nature and severity of the impairment; duration or expected duration of the impairment; and permanence or long-term impact

3J Using **Transparency 3J**, and explain the factors that can be used for determining whether a person is substantially limited in working, which includes geographical area limitations, limitations in terms of number and types of jobs using similar skills and training, and number of jobs available not using similar skills and training.

People are not substantially limited in working simply because they are unable to perform a particular job for one employer or because they are unable to perform a specialized job or profession requiring extraordinary skill, prowess, or talent.

Unit Three

**Physical or
Mental
Impairment**

3
min

3K

Example:

A baseball pitcher who develops a bad elbow and can no longer pitch would not be substantially limited in working because he could no longer perform the specialized job of pitching in baseball.

With the information on **Transparency 3K**, provide the following further refinement of the definition of "physical or mental impairment":

The decision whether a person has a disability should be assessed without regard to availability of auxiliary aids, medicines, or other mitigating measures

Example:

A person who has epilepsy and uses medication to control seizures would still be considered to have an impairment, even if the medication reduces the impact of the impairment.

The term "impairment" does not include simple physical characteristics or common personality traits.

Example:

Lefthandedness, eye color, a quick temper, poor judgement, cultural or economic disadvantages are not considered to be impairments.

**Who is a
"Qualified
Individual with a
Disability"?**

3
min

3L

Using **Transparency 3L**, confirm that under the ADA a qualified individual with a disability is a person who "satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position."

Further Points to Discuss:

List the basic steps in determining whether an individual "is qualified" under the ADA:

- ☐ *Determine if the individual meets necessary prerequisites of the job*
- ☐ *Determine if the individual can perform the essential functions of the job, with or without reasonable accommodations*

Program on Employment and Disability

Unit Three

3M	Using Transparency 3M, briefly discuss the importance of essential job functions. Then transition to the concept "otherwise qualified": if an individual meets all the job prerequisites except those that he or she cannot meet because of a disability, and alleges discrimination because she or he is "otherwise qualified" for a job, the employer must show that the requirements that screened out this individual are "job-related and consistent with businesses necessity", including that no reasonable accommodation will enable the individual to meet the requirements or perform the essential functions of the job.
Areas in Which Discrimination is Prohibited 2 min 3N	Transparency 3N lists the areas in which discrimination is prohibited under the ADA Employment Provisions: hiring, promotions and transfers, training, compensation, fringe benefits, layoffs and terminations. <i>NOTE: Explain to participants that people with disabilities should have the same opportunities to take advantage of education and training opportunities provided by the employer to all of their employees and use that advantage, as do other employees, for promotions, transfers, pay raises, etc.</i>
Actions by an Employer that Constitute Unlawful Discrimination 2 min 3O	Using Transparency 3O and referencing to page 16 in the Participant Manual, provide an overview of the following six areas in which discrimination is prohibited under the ADA Employment Provisions: · Classifying or segregating employees or job applicants with disabilities · Letting someone else discriminate on your behalf · Discriminating because of an association to a person with a disability · Refusing to make an accommodation · Refusing to hire or promote a person with a disability · Using employment tests or criteria that screen out persons with disabilities
Hiring Practices 4 min	Discuss briefly pre-employment inquiries. The ADA prohibits making inquiries about a disability or the nature or severity of a disability. Suggest a general rule — any question that illicit a response regarding the individual's disability is probably illegal and should not be asked.

Unit Three

- 3P Using Transparency 3P, and referring to page 17 in the Participant Manual, review the listed examples of questions that are permitted during the interview and pre-offer stage and the examples of questions that are prohibited during this time. Emphasize that these are only a few examples. Restate again that intent is to focus on the individual's ability to perform the essential job functions, not the nature or impact of the disability.

Examples of questions that are permitted during the interview process.

- Are you able to perform these tasks with or without reasonable accommodation?
- This job requires working varied schedules. Can you do that?
- Can you lift up to 50 pounds with or without reasonable accommodation?
- Can you tell me about the duties of your last job?

Examples of questions that are prohibited during the interview process.

- Why are you using a wheelchair?
- Have you ever had a mental illness?
- Do you have a disability or illness that I should know about?
- Have you ever been hospitalized? If so for what reason?
- How many days were you absent from work last year due to illness?
- Have you ever filed for workers' compensation insurance?
- Have you ever been treated for any medical condition?

**Medical
Examinations at
Employment
Entrance**

NOTE: Explain to participants that the ADA's provisions concerning medical exams and disability-related inquiries are intended to prevent discrimination against individuals with "hidden" disabilities, or secondary conditions to disabilities such as; epilepsy, diabetes, mental illness, heart disease, HIV/AIDS, and cancer.

Unit Three

5
min

3Q

Using Transparency 3Q, provide an overview of the following information regarding medical pre-employment screening:

- Under the ADA it is illegal to conduct medical examinations before an employment offer
- The employer may not make disability-related inquiries or ask about workers' compensation history at pre-employment stage
- A covered entity may require a medical examination (and/or inquiry) after making an offer of employment to a job applicant before beginning his or her employment duties. An employer may condition an offer of employment on the results of such examination (and/or inquiry) if all new employees in the same job category are subjected to such an examination regardless of disability.
- If the employer withdraws the offer based on exam results, the employer must be able to prove that
 - exclusionary criteria do not screen out or tend to screen out individuals with disabilities (either one person or a class of persons)
 - exclusionary criteria are job related and consistent with business necessity
 - no reasonable accommodation will enable the person to perform the essential functions of the job
 - the individual with a disability poses a direct threat to the health and safety of himself or others that cannot be reduced or eliminated through a reasonable accommodation
 - effective accommodation to the individual with a disability would cause the employer undue hardship

Clarify any of these points with examples, if needed.

Unit Three

**Confidentiality
and Limitations
on Use of Medical
Information**

4
min

3R

Using **Transparency 3R**, give participants the following information regarding confidentiality and limitations on use of medical information as mandated by the ADA Employment Provisions:

Although the ADA does not limit the nature or extent of post-offer medical examinations and inquiries, it poses strict limitations on the use of information obtained from such examinations and inquiries

- all information obtained from post-offer medical examinations and inquiries must be collected and maintained on separate forms, in separate medical files and must be treated as confidential medical information
- Employers should not place any medically-related information in any employee's personnel file
- Employers should take steps to guarantee the security of the employee's medical information, including keeping the medical information in a separate, locked cabinet apart from personnel files; and designating a specific person or persons to have access to the medical files

3S

Transition to **Transparency 3S** by further discussing:

Medically-related information must be kept confidential, with the following exceptions:

- Supervisors and managers may be informed about necessary restrictions on the worker duties of an employee and necessary accommodation
- First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment or if any specific procedures are needed in the case of fire or other evacuation
- Government officials investigating compliance of the ADA and other federal and state laws prohibiting discrimination on the basis of disability or handicap should be provided with relevant information upon request
- Relevant information may be provided to state workers' compensation offices, "second injury" funds, or workers' compensation insurance carriers in accordance with state workers' compensation laws
- Relevant information may be provided to insurance companies that require the medical examination to provide health or life insurance for employees

Unit Three

Health Insurance
and Other
Employee Benefit
Plans

4
min

3T
3U

Transparencies 3T and 3U list the following issues related to health insurance and other employee benefit plans regarding the ADA employment provisions:

NOTE: *The employer or other covered entity may not limit, segregate, or classify an individual with a disability, on the basis of disability, in a manner that adversely affects an individual's employment, and this prohibition applies to the provision of health insurance and other benefits such as life insurance and pension plans.*

Further Points to Discuss:

- ☐ *If an employer provides insurance or other benefit plans to its employees, employees with disabilities must be given equal access to whatever insurance or benefit plans the employer provides.*
- ☐ *An employer cannot deny insurance to an individual with a disability or subject an individual with a disability to different terms or conditions, based on disability alone, if the disability does not pose increased insurance risks. Nor may the employer enter into any contract or agreement with an insurance company or other entity that has such an effect.*
- ☐ *An employer may continue to offer health insurance plans that limit reimbursements for certain types of treatments or procedures, even if these restrictions adversely affect individuals with disabilities, as long as the restrictions are uniformly applied without regard to disability.*
- ☐ *An employer cannot fire or refuse to hire an individual with a disability because the employer's current health insurance plan does not cover the individual's disability or because the individual may increase the employer's future health care costs.*
- ☐ *An employer cannot fire or refuse to hire an individual (whether or not that individual has a disability) because the individual has a family member or dependent with a disability that is not covered by the employer's current health insurance plan, or that may increase the employer's future health care costs.*
- ☐ *Where an employer provides health insurance through an insurance carrier that is regulated by state law, it may provide coverage in accordance with accepted principles of risk assessment and/or classification, as required or permitted by such law, even if this causes limitations in coverage for individuals with disabilities.*

Unit Three

- ☐ *Similarly, self-insured plans that are not subject to state law may provide coverage in a manner consistent with basic accepted principles of insurance risk classification, even if this results in limitations in coverage to individuals with disabilities.*
- ☐ *An employer may continue to offer health insurance plans that contain pre-existing condition exclusions, even if this adversely affects individuals with disabilities, unless these exclusions are being used as a subterfuge to evade the purpose of the ADA.*
- ☐ *An employer may continue to offer health insurance plans that limit coverage for certain procedures, and/or limit particular treatments to a specified number per year, even if these restrictions adversely affect individuals with disabilities, as long as the restrictions are uniformly applied to all insured individuals, regardless of disability.*
- ☐ *The area of employer-provided and labor union—provided health insurance is still evolving and may not be firmly settled until a case is decided by the U.S. Supreme Court.*
- ☐ *Another potential development that may dramatically alter the law on this issue would be the enactment of a federal universal health care program.*

Example:

Health related insurance distinctions based on disability may violate the ADA. A term or provision is disability based if it singles out a particular disability e.g. AIDS. There has been quite a few complaints filed by the EEOC relating to the policy that some health insurance companies had where there is a benefit cap of, say, \$100,000 per year on all physical conditions, except for AIDS, which has a cap of \$5,000 per year. The lower AIDS cap is a disability based distinction, and may be a violation of the ADA. (to be certain of a violation, other investigations need to be done to determine if the insurance company is bonafide, etc.)

Reasonable Accommodation

4
min

Explain to participants that you are going to briefly discuss the categories of reasonable accommodation, and that in our next unit, Unit Four, the reasonable accommodation process will be reviewed in depth.

Emphasize that the reasonable accommodation obligation for qualified applicants or employees with disabilities is not new in the ADA but has been a part of regulations of the EEOC, the Office of Federal Contract Compliance Programs, and the Department of Justice since the 1970s, pursuant to the rules for nondiscrimination in employment from sections 501, 503, and 504 of the Rehabilitation Act of 1973.

Unit Three

Three categories of Reasonable Accommodations:

- 3V Using **Transparency 3V**, state that while the ADA does not specifically define reasonable accommodation, it does break accommodations down into three categories — job application process, the work environment, and other equal benefits and privileges of employment. Give an example of a possible accommodation for each category.

Example:

Providing a pre-employment test in an alternative format, modifying a desk and work area to accommodate a person who uses a wheelchair, and making a break room or lunch are accessible to all employees.

- 3W Using **Transparency 3W**, list some of the examples given in the ADA regulations for reasonable accommodations: making existing facilities accessible; job restructuring; part-time or modified work hours; reassignment to a vacant position; acquisition or modification of equipment or devices; appropriate adjustment or modification of examinations, training materials or policies; provision of qualified readers or interpreters; and other accommodations for individuals with disabilities.

NOTE: *Clarify that this list is not exhaustive, clarify that determination of appropriate accommodations must be done on a case by case basis, and remind participants that we will review this process in depth in Unit Four.*

Essential Job Functions

4
min

- 3X Using **Transparency 3X**, talk about essential job functions and the role they play in the whole reasonable accommodation process. Emphasize what was stated earlier in the language of the law, a qualified person with a disability is one who is able to perform the essential functions of the job, with or without reasonable accommodation. Essential functions are important because they are a determining factor in evaluation of need for a reasonable accommodation.

NOTE: *Simply stating that a function of a position is essential is not always the sole determining factor. It may be a marginal task, and not need to be reasonably accommodated. Review the following process:*

Factors That Make a Function Essential. Discuss some of the factors listed in the EEOC regulation and on **Transparency 3X**, that may be considered in determining whether a specific function of a position is essential: whether the position exists to perform a specific function; the number of other employees available to perform that function, or among whom the performance of that job function can be distributed; and the degree of expertise or skill required to perform the function.

Unit Three

Direct Threat

3
min

3Y Using **Transparency 3Y**, review the evidence for determining whether a function is essential. The following factors may be used as relevant evidence in determining whether a function is essential: the employer's judgment; written job descriptions; amount of time spent on the task; terms of a collective bargaining agreement; consequences of not performing the task; experience of former incumbents; experience of current incumbents in similar jobs.

Referencing page 23 of the Participant Manual, explain that an employer may require, as a qualification standard, that an individual not pose a direct threat to the health or safety of himself or herself or others.

Further Points to Discuss:

- ☐ *Like any other qualification standard, such a standard must apply to all applicants or employees and not just to individuals with disabilities.*
- ☐ *If an individual poses a direct threat as a result of a disability, the employer must determine whether a reasonable accommodation would either eliminate the risk or reduce it to an acceptable level.*
- ☐ *If no accommodation exists that would either eliminate or reduce the risk, the employer may refuse to hire an applicant or may discharge an employee who poses a direct threat.*
- ☐ *An employer is not permitted to deny an employment opportunity to an individual with a disability merely because of a slightly increased risk. The risk can only be considered when it poses a significant risk, i.e., high probability, or substantial harm; a speculative or remote risk is insufficient.*
- ☐ *Direct threat means a significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation.*
- ☐ *The determination that an individual poses a "direct threat" shall be based on an individualized assessment of the individual's present ability to perform safely the essential functions of the job.*
- ☐ *In determining whether an individual would pose a direct threat, the factors to be considered include*
 - *Duration of the risk*
 - *Nature and severity of the potential harm*
 - *Likelihood that the potential harm will occur*
 - *Imminence of the potential harm*

Program on Employment and Disability

Unit Three

Undue Hardship Under the ADA

2
min

3Z

Using Transparency 3Z, also review the criteria that can be used for establishing a defense of undue hardship in denying a reasonable accommodation to a qualified individual with a disability: size of business; size of budget; nature of operation; number of employees; composition and structure of the workforce; and nature and net cost of accommodation.

Further Points to Discuss:

- ☐ *Beyond Undue Hardship. The EEOC Technical Assistance Manual states that if an accommodation would indeed present an undue hardship to a given employer, the accommodation may still be provided on a cost-sharing basis, either with or without funds or with the assistance of the individual with a disability. If time allows, introduce brief ideas of what other sources of funding might be, or refer to segments later on in the manual or training program that provide additional information about these resources.*

Enforcement of the ADA

2
min

3i

Using Transparency 3i, confirm for participants that the ADA will be enforced under the same procedures now applicable to race, sex, national origin, and religious discrimination and under Title VII of the Civil Rights Act of 1964; claims may be filed with the Equal Employment Opportunity Commission or designated human rights agency. If appropriate, advise participants of their state and local resources for filing complaints.

Remedies

2
min

3ii

Review the possible remedies if a case of discrimination is found on Transparency 3ii, including: hiring, reinstatement, back pay, and court orders to stop discrimination. Since the passage of the Civil Rights Act of 1991, compensatory and punitive damages are also available under the ADA under certain circumstances.

Defenses

2
min

3iii

Explore each point of Transparency 3iii to review the five different types of defenses to a charge of discrimination.

Conflict with Other Federal Laws. Discuss that it may be a defense to a charge of discrimination under this part of the law that a challenged action is required or necessitated by another federal law or regulation or that federal law prohibits such action.

Example:

The Occupational Safety and Health Act (OSHA) prohibits certain actions (such as allowing seeing eye dogs in a food preparation area) even though this might be a reasonable accommodation under the ADA.

Unit Three

Religious Organizations. Religious organizations may give preference in employment of individuals of a particular religion and may require all applicants and employers to conform to the religious tenants of their organizations. The organization cannot however, discriminate against a qualified individual, who satisfies the permitted religious criteria, because of his or her disability.

Food Handlers. An employer may refuse to assign or continue to assign an individual with an infectious communicable disease that is transmitted to others through the handling of food, when the disease is listed by the Secretary of Health and Human Services as a disease that may be transmitted through handling the food supply and the risk cannot be eliminated by reasonable accommodation.

Direct Threat. It may be a defense to a charge of discrimination if the individual with a disability poses a direct threat to the safety or health to him/herself or others.

Undue Hardship. A reasonable accommodation that would cause the employer undue hardship may also be considered a defense to a charge of discrimination.

**Beyond ADA
Requirements**

2
min

3iv

As a closing point to the Title I Employment Provisions, use **Transparency 3iv** and explain why the following practices being mandated and recommended under ADA Employment Provisions are good for business and effective human resource practices:

Expanded Labor Pool. By broadening our receptivity to recruitment and retention of workers who have disabilities, we expand the available pool of labor as a possible workforce.

Good Human Resource Management. Many of the practices suggested to implement the ADA are extensions of existing good human resource practices and do not necessitate radical changes but expansion of existing policies.

Enhanced Productivity. Some of the workplace practices suggested to assist in the reasonable accommodation process, such as individual consultation with the individual worker, job and task analysis, use of ergonomic analysis, are useful not only to assist the productivity of a worker with a disability, but can assist in enhancing the productivity of other workers in similar positions as well.

Unit Three

Disability Management—Cost Containment. Returning workers who have acquired disabilities to the workplace not only meets ADA compliance concerns but makes good sense for employers in terms of cost containment for Workers' Compensation and long-term disability costs.

Primary Prevention and Early Intervention. Assessing causes and possible prevention strategies of disablement in the workplace will assist in eliminating or lessening disability-related problems, a concern for both employers and workers.

ADA EMPLOYMENT PROVISIONS (TITLE I) KEY CONCEPTS

- Covered entities
- Definition of “disability”
- Qualified individual with a disability
- Areas where discrimination is prohibited
- Reasonable accommodation
- Undue hardship

Transparency 3B

COVERED ENTITIES

- Effective July 26, 1994, an employer is anyone having fifteen or more employees
- Covered entities include private employers, state and local governments, employment agencies, and labor unions
- Exceptions to this coverage are employers with fewer than fifteen employees, the United States government, Indian tribes, and a bona fide private membership club (other than a labor organization) that is exempt from taxation under Section 501 (c) of the Internal Revenue Code of 1986

DEFINITION OF DISABILITY

The ADA is modeled after Section 504 of the Rehabilitation Act of 1973 and states what disability means with respect to an individual:

- A physical or mental impairment that substantially limits one or more major life activities of such individual
- A record of such an impairment
- Individual is regarded as having such an impairment

DEFINITION OF DISABILITY

Physical or mental impairment means any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems:

- Neurological
- Musculoskeletal
- Special sense organs
- Respiratory (including speech organs)
- Cardiovascular
- Reproductive
- Digestive
- Genito-urinary
- Hemic and lymphatic
- Skin and endocrine

Any mental or psychological disorder such as

- Mental retardation
- Organic brain syndrome
- Emotional or mental illness
- Specific learning disabilities

DEFINITION OF DISABILITY

Substantially limits means an individual is:

- Unable to perform a major life activity that the average person in the general population can perform
- Significantly restricted as to the condition, manner, or duration under which they can perform a particular major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform that same major life activity

DEFINITION OF DISABILITY

Major life activities means functions such as :

- Caring for oneself
- Performing manual tasks
- Walking
- Seeing
- Hearing
- Speaking
- Breathing
- Learning
- Working

Transparency 3G

EXCLUSIONS FROM THE DEFINITION

The ADA does not consider the following to be disabilities:

- Homosexuality, bisexuality, transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders
- Compulsive gambling, kleptomania, and pyromania

The ADA also excludes an individual who is engaged in the illegal use of drugs at the time of an adverse employment action where the employer acts on the basis of such drug use. Persons experiencing psychoactive substance use disorders resulting from current illegal use of drugs also are not protected by the ADA. (However, an individual who is engaged in or has completed drug rehabilitation and is no longer illegally using drugs would be considered protected under the ADA.)

Transparency 3H

DEFINITION OF DISABILITY: DRUG AND ALCOHOL ABUSE

- Individual who is currently engaged in the illegal use of drugs is not an "individual with a disability"
- Employer may prohibit the illegal use of drugs and the use of alcohol at the workplace
- It is not a violation of the ADA for an employer to give tests for the illegal use of drugs
- Employer may discharge or deny employment to persons who currently engage in the illegal use of drugs
- Employer may not discriminate against a former drug user who is not currently using drugs
- An alcoholic is considered an individual with a disability
- Employer may discipline, discharge, or deny employment to an alcoholic whose use of alcohol impairs job performance
- Employees who use drugs or alcohol may be required to meet the position standards of performance
- Employees may be required to follow the Drug-Free Workplace Act of 1988

Transparency 31

"SUBSTANTIALLY LIMITS"

An impairment that prevents an individual from performing a major life activity substantially limits that major life activity

An impairment is also substantially limiting if it significantly restricts the condition, manner, or duration under which an individual can perform a particular major life activity as compared to the average person

The regulation describes several factors that should be considered in determining whether an impairment is substantially limiting:

- Nature and severity of the impairment
- Duration or expected duration of the impairment
- Permanent or long-term impact, or expected permanent or long-term impact of, or resulting from, the impairment

Transparency 3J

SUBSTANTIALLY LIMITS

In specific reference to the major life activity of working, the EEOC regulation lists certain factors for determining whether the limitation is "substantial":

- Geographical area
- Number and types of jobs using similar training, knowledge, skills, or abilities
- Number and types of other jobs not using similar training

Persons are not substantially limited in working simply because they are unable to perform a particular job for one employer or because they are unable to perform a specialized job or profession requiring extraordinary skill, prowess, or talent.

Transparency 3K

PHYSICAL OR MENTAL IMPAIRMENT

The ADA regulations define “physical or mental impairment” as any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of several body systems, or a mental or psychological disorder.

- Whether a person has a disability should be assessed without regard to the availability of auxiliary aids, medicines, or other “mitigating measures”

Physical or mental impairment does not include

- Simple physical characteristics
- Common personality traits
- Environmental, cultural, or economic disadvantages

Transparency 3L

Who Is a "Qualified Individual with a Disability"?

An employer is not required to hire or retain an individual who is not qualified to perform a job. The regulations define a qualified individual with a disability as a person who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.

Transparency 3M

DEFINITION OF QUALIFIED

The ADA requires an employer to focus on the essential functions of a job to determine whether a person with a disability is qualified. This is an important nondiscrimination requirement. Many people with disabilities who can perform essential job functions are denied employment because they cannot do things that are only marginal to the job.

Otherwise qualified

If however, an individual meets all job prerequisites except those that she or he cannot meet because of a disability and alleges discrimination because she or he is "otherwise qualified" for a job, the employer must show that the requirement that screened out this person is job related and consistent with business necessity, including that no reasonable accommodation would enable the individual to meet the requirement or perform the essential functions of the job.

Transparency 3N

AREAS IN WHICH DISCRIMINATION IS PROHIBITED

- Hiring
- Promotions and transfers
- Training
- Compensation
- Fringe benefits
- Layoffs
- Terminations

ACTIONS BY AN EMPLOYER THAT CONSTITUTE UNLAWFUL DISCRIMINATION

- Classifying or segregating
- Discriminating through a contractual relationship
- Discriminating because a person is related to or associated with a person with a disability
- Refusing to make a reasonable accommodation
- Refusing to hire or promote a person with a disability
- Using employment tests or criteria that screen out or tend to screen out applicants with disabilities
- Testing that measures impaired sensory, manual or speaking skills rather than job-related abilities that are the focus of the test (unless the test is designed to measure these skills)
- Retaliating against an individual who participates in filing a charge or otherwise opposing a discriminatory practice

EXAMPLES OF QUESTIONS THAT ARE PERMITTED DURING THE INTERVIEW PROCESS

- *Are you able to perform these tasks with or without reasonable accommodation?*
- *This job requires working varied schedules. Can you do that?*
- *Can you lift up to 50 pounds with or without reasonable accommodation?*
- *Can you tell me about the duties of your last job?*

EXAMPLES OF QUESTIONS THAT ARE PROHIBITED DURING THE INTERVIEW PROCESS

- *Why are you using a wheelchair?*
- *Have you ever had a mental illness?*
- *Do you have a disability or illness that I should know about?*
- *Have you ever been hospitalized? If so for what reason?*
- *How many days were you absent from work last year due to illness?*
- *Have you ever filed for workers' compensation insurance?*
- *Have you ever been treated for any medical condition?*

Transparency 3Q

MEDICAL EXAMINATIONS AT EMPLOYMENT ENTRANCE

- Under the ADA it is illegal to conduct medical exams before an employment offer
- A covered entity may require a medical examination (and/or inquiry) after making an offer of employment to a job applicant before beginning his or her employment duties, and may condition an offer of employment on the results of such examination (and/or inquiry), if all entering employees in the same job category are subjected to such an examination (and/or inquiry) regardless of disability
- If the employer withdraws an offer based on exam results, the employer must be able to prove that:
 - The test does not screen out or tend to screen out individuals with disabilities (either one person or a class of persons)
 - The test is job-related and consistent with business necessity
 - No reasonable accommodation will enable the person to perform the essential functions of the job
 - The individual with a disability poses a direct threat to the health and safety of himself or others that cannot be reduced or eliminated through a reasonable accommodation
 - Effective accommodation to the individual with a disability would cause the employer undue hardship

Transparency 3R

CONFIDENTIALITY AND LIMITATIONS ON USE OF MEDICAL INFORMATION

The ADA imposes very strict limitations on the use of information obtained from such examinations and inquiries.

- All information must be maintained as a confidential medical record
- This record must be kept in a separate, locked cabinet, apart from location of personnel files
- A specific person or persons must be given access to the medical file

Transparency 3S

CONFIDENTIALITY AND LIMITATIONS ON USE OF MEDICAL INFORMATION

All medically related information must be kept confidential, with the following exceptions:

- ♦ Supervisors and managers
- ♦ First aid and safety personnel
- ♦ Government officials
- ♦ State workers' compensation offices, state second injury funds, or workers' compensation insurance carriers in accordance with applicable state law
- ♦ Insurance companies

HEALTH INSURANCE AND OTHER EMPLOYEE BENEFIT PLANS

An employer may not limit, segregate, or classify an individual with a disability.

- This applies to the provision and administration of health insurance and other benefit plans
- Employer must provide equal access to whatever insurance or benefit plans the employer offers
- Employer cannot deny insurance to an individual with a disability or subject an individual with a disability to different terms or conditions of insurance, if the disability does not pose increased insurance risks
- Employer may continue to offer health insurance plans that limit reimbursements for certain things
- Employer cannot fire or refuse to hire an individual with a disability because employer's current health insurance plan does not cover individual's disability
- Employer cannot fire or refuse to hire because individual has a family member or dependent with a disability

Transparency 3U

HEALTH INSURANCE AND OTHER EMPLOYEE BENEFIT PLANS

- When coverage is through an insurance carrier that is regulated by state law, accepted principles of risk assessment and/or risk classification can be applied
- Self-insured plans must be consistent with basic accepted principles of insurance risk classification
- Employer may continue pre-existing condition exclusions
- Employer may limit coverage for certain procedures, and/or limit particular treatments to a specified number per year
- ADA law on employer-provided and labor union-provided health insurance is still evolving and may not be firmly settled until case is decided by U.S. Supreme Court.
- A federal universal health care program might dramatically alter existing law.

REASONABLE ACCOMMODATION

There are three categories of reasonable accommodation:

- Modifications or adjustments to a job application process that enables a qualified individual with a disability to be considered for the position such qualified individual desires.
- Modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enables a qualified individual with a disability to perform the essential functions of that position.

Modifications or adjustments that enable a covered entity's employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without disabilities.

Transparency 3W

EXAMPLES OF REASONABLE ACCOMMODATION

- Making existing facilities used by employees accessible to individuals with disabilities
- Job restructuring
- Part-time or modified work hours
- Reassignment to a vacant position
- Acquisition or modification of equipment or devices
- Appropriate adjustment or modifications of examinations, training materials, or policies
- Provision of qualified readers or interpreters
- Other similar accommodations for individuals with disabilities

Transparency 3X

ESSENTIAL JOB FUNCTIONS

The “essential functions” are the fundamental “job duties of the employment position the individual holds or desires.” These do not include marginal functions. The following factors make a function essential:

- Whether the employer actually requires employees in the position to perform the function
- Whether removing the function would fundamentally alter that position
- Whether the position exists to perform a specific function
- The number of other employees available to perform that job function, or among whom the performance of that job function can be distributed
- The degree of expertise or skill required to perform the function

Transparency 3Y

EVIDENCE FOR DETERMINING WHETHER A FUNCTION IS ESSENTIAL

The regulation names the following factors that may be used as relevant evidence:

- The employer's judgment as to which functions are essential
- Written job descriptions prepared before advertising or interviewing
- Amount of time spent on the task
- The terms of a collective bargaining agreement
- Consequences of not performing the task
- Work experience of incumbents
- Work experience of former incumbents

UNDUE HARDSHIP UNDER THE ADA

The term is generally defined as “requiring significant difficulty or expense.” What criteria are used for establishing this defense?

- Size of the business
- Size of its budget
- Nature of its operation
- Number of its employees
- Composition and structure of its work force
- Nature and net cost of the accommodation

ENFORCEMENT OF THE ADA

The employment provisions of the ADA will be enforced under the same procedures now applicable to race, sex, national origin, and religious discrimination under Title VII of the Civil Rights Act of 1964.

Charges may be filed with the Equal Employment Opportunity Commission or designated state human rights agencies.

REMEDIES

Available remedies will include

- Hiring
- Reinstatement
- Back pay
- Court orders to stop discrimination

Since the passage of the Civil Rights Act of 1991, compensatory and punitive damages are also available under the ADA in certain circumstances.

DEFENSES

It may be considered a defense to a charge of discrimination based on the application of qualification standards, tests, or selection criteria that have denied jobs or benefits to individuals with disabilities, if the standards or criteria are job-related and consistent with business necessity, and performance cannot be accomplished by reasonable accommodation.

Other possible defenses include

- Conflict with other federal laws
- Religious organizations
- Food handlers
- Direct threat
- Undue hardship

BEYOND ADA REQUIREMENTS

Effective implementation of the ADA has benefits to employers and labor unions beyond legal requirement concerns. These include

- Expanded labor pool
- Good human resource management
- Enhanced productivity
- Disability management—cost containment
- Primary prevention and early intervention

UNIT FOUR

REASONABLE ACCOMMODATION PROCESS

REASONABLE ACCOMMODATION PROCESS

Process for Determining the Appropriate Reasonable Accommodation

10
min
video

20
min
lecture

Explain to participants that once a qualified individual with a disability has requested provision of a reasonable accommodation, the employer must make a reasonable effort to determine the appropriate accommodation. This process should be an informal, interactive problem-solving technique involving the employer and the qualified individual with a disability. This procedure is equally valid for making accommodations in the job application process and in providing equal benefits and privileges of employment. (If available, select and show a videotape on the reasonable accommodation process from the Media Resources List in Module II of the curriculum.)

4A Using **Transparency 4A**, review the steps an employer or union should take in making an accommodation:

- Analyze the particular job involved and determine its purpose and essential functions
- Consult with the individual with the disability to ascertain the precise job-related limitations imposed by the person's disability and how those limitations could be overcome with a reasonable accommodation
- In consultation with the individual to be accommodated, identify potential accommodations and assess the effectiveness each would have in enabling the individual to perform the essential functions of the position
- Consider the preference of the individual to be accommodated and select and implement the accommodation that is most appropriate for both the employee and the employer

4A Using **Transparency 4B**, further explain some key scenarios during which neither the person who needs the accommodation nor the employer can readily identify the appropriate accommodation:

- The individual may not know enough about the equipment used or the nature of the worksite to suggest an appropriate accommodation. Likewise, the employer may not have enough knowledge of the person's disability or the limitations that disability would impose on the performance of the job to know which accommodation would work. In such a situation, the employer should first assess the job by analyzing the actual duties of the position to determine what is the true purpose or object of the job, and what are the essential functions of the job that the individual with a disability must perform with or without reasonable accommodation

Unit Four

Total Cost of Accommodation to Company

5
min

- Then, in consultation with the individual, the employer should assess the specific limitations imposed by the disability on the person's performance of the job's essential functions
- If the consultation still does not reveal accommodation options, the employer should seek technical assistance from relevant local and regional sources such as: state or local vocational rehabilitation agencies or commissions for the blind, independent living centers, technology assistance centers, or specific professionals such as ergonomist, occupational or physical therapists, psychologists, or supported employment or vocational rehabilitation counselors

NOTE: *Berkeley Planning Associates in collaboration with its subcontractor Harold Russell Associates completed for the Department of Labor (DOL) the first national survey of private-sector employers contracting with the government, concerning accommodation practices for persons with disabilities. A total of 2,000 federal contractors were surveyed, with 367 (18 percent) responding. Of those who responded and reported experience with accommodations, the following data suggest that accommodations rarely involved much expense. This is encouraging news for employers who are actively seeking effectively to implement the ADA within their organizations.*

1E Using the chart referenced in **Transparency 4C**, review the findings of the Berkely Planning Associates Study. Highlight for participants the following statistics of interest:

- Over 50% of accommodations made cost nothing.
- Almost 19% of accommodations in the study cost less than \$100.00.
- Almost 12% of accommodations cost less than \$500.00.
- Of the accommodations made, more than 80% cost less than \$500.00.

Cost	Frequency of Response	
	Number	Percent
None	458	51.1
\$1-99	169	18.5
\$100-499	109	11.9
\$500-999	57	6.2
\$1,000-1,999	39	4.3
\$2,000-4,999	35	3.8
\$5,000-9,999	9	1.0
\$10,000-14,999	8	0.9
\$15,000-19,999	6	0.7
\$20,000-or more	15	1.6
Total for which cost was reported	915	100.0

*From: Harold Russell Associates. *A Study of Accommodations Provided to Handicapped Employees by Federal Contractors*. Prepared for the U.S. Department of Labor, Employment Standards Administration (contract J-9-E-1-0009), June 1982.

Unit Four

Practices that can Assist in Making Successful Accommodations

10
min

4D

Explain to participants that most of what we have learned about making accommodations has come from the business sector. Among firms with accommodation experience, several practices which can facilitate successful accommodation have been noted and are outlined in **Transparency 4D** and below:

- Involving workers with disabilities in their own accommodation processes
- Expressions of commitment by top management to accommodating workers with disabilities
- Assigning a specialist within the Human Resources
- Establishing special procedures for reviewing and tracking
- Centralizing recruiting, intake, and monitoring of hiring decisions
- Identifying jobs or task assignments where a specific disability is not necessarily a hindrance
- Developing orientation for workers with disabilities, and their supervisors and coworkers
- Spreading the word inside the firm about successful experiences in accommodation
- In-service training of personnel staff, line managers, supervisors, and coworkers about nondiscrimination and accommodation
- Outreach to outside organizations able to refer job applicants with disabilities and to provide information on appropriate accommodations
- Sharing information and experiences about accommodations with other firms
- Continually reevaluating accommodations for current relevance to job requirements and the needs of the individual

Unit Four

**Selected
Examples of
Accommodations
for Persons with
Cognitive
Support Needs**

10
min

4E

Emphasize that all accommodation decisions must be made on a case-by-case basis, dependent upon the needs of the individual with a disability and the workplace. Using **Transparency 4E**, review the three critical domains which may require some form of accommodation for individuals with cognitive support needs.

Cognitive Abilities	Physical Abilities	Behavioral/ Emotional Abilities
Attention Concentration Memory Reasoning Following Directions Organization Insight Problem Solving Prioritizing Decision Making Learning	Mobility Endurance/Strength Vision Hearing Fine Motor Coordination Speech Coordination of Body and Limbs Gross Motor Coordination	Social Interactions Tolerance Self-Esteem/Worth Sexuality Control Affect Temperment Emotional Stability

Instructor notes that whenever anyone begins a new job he/she requires some type of support and it is important to remember this when considering supporting and providing accommodations to a people with cognitive disabilities. Often the best support for a person with a cognitive disability is if not the exact same, very similiar to the support we need to provide to any new employee. Ask the participants to share what kind of support/assistance they needed or found helpful when they began their current job. Referencing pg. 28, review the list of supports for all new employees and add any additional responses/observations from the participants — Emphasize the concept of "more alike than different" — individuals with disabilities may have the same needs as any new employee.

Solicit participants to generate some additional potential accommodations based on the following example:

Example:

John has been extended a job as a chamber person for a prominent hotel in the Chicago area. Some of his essential job functions include:

Unit Four

- sequencing a twelve-step cleaning task.
- discriminating between seven cleaning supplies.
- reading door signage, or knocking and announcing housekeeping, awaiting a positive or negative response and responding accordingly.

John can sequence eight steps independently although he has a great deal of difficulty discriminating between work supplies based on his limited ability to read. Based on these capacities and support needs, what might some potential accommodations be to assist John in being successful in this position

4I—4H Using **Transparencies 4F—4H**, review what is meant by cognitive, physical and behavioral/emotional abilities. Review and discuss the list of examples of accommodations — providing additional examples or explanations if necessary. Discuss importance gathering accurate and job or work experience related information about the person before he/she begins the job as a way to help in providing the most appropriate support and accommodations. Ask participants to provide additional suggestions.

State that the list of examples are just that — examples! Emphasize that "no one size fits all" when it comes to providing reasonable accommodations. Explain that there is technical assistance available to help employers provide effective accommodations for individuals with disabilities. Also there are several tax benefits that are available to assist employers to comply with the ADA which includes making reasonable accommodations. Refer participants to the resource directory in the back of the participant manual.

4I Using **Transparency 4I**, emphasize that the provision of accommodations is an evolving process. In order for accommodations to be effective, individuals with disabilities need to be consulted after the accommodation is put in place to assess overall effectiveness and any changes that may need to take place. Often, after a person has been on the job for some time, the need for the initial accommodation diminishes or at least changes--particularly in the area of cognitive supports. Discuss methods for obtaining feedback and conducting follow-up (e.g. individual meetings, questionnaires, performance reviews, etc.) Record responses on the flipchart.

Unit Four

Transition to Next Unit

5
min

4J

Using **Transparency 4J**, conclude by reviewing some final considerations when identifying, facilitating the development of, and providing reasonable accommodations as outlined below:

- Employers are not required to accommodate individuals with disabilities by eliminating the essential functions of the job.
- Employers are required to make reasonable accommodations only to "known physical or mental limitations".
- There must be a nexus between an individual's disability and the need for an accommodation.
- Employers may require documentation for "hidden" disabilities or for reasonable accommodation when the need is not obvious.
- An employer or covered entity may not compel an individual to accept an accommodation.
- The preference of the individual with a disability should be given primary consideration - However, the employer has the ultimate discretion to choose between effective accommodations.
- An individual's willingness to provide his/her own accommodation does not relieve the employer of the duty to provide the accommodation.
- Reasonable accommodations must be determined on a case-by-case basis to determine whether they constitute undue hardship.
- While employers are not required to accommodate individuals with disabilities by eliminating the essential functions of the job, employers can explore the possibility of task re-design to either: decrease the number of physical manipulations required; decrease the number of discriminations required; decrease the number of steps to be sequenced; increase the distinctiveness of cues; and/or other considerations.

REASONABLE ACCOMMODATION PROCESS

- Analyze the particular job involved and determine its purpose and essential functions
- Consult with the individual with the disability to ascertain the precise job-related limitations imposed by the person's disability and how those limitations could be overcome with a reasonable accommodation
- In consultation with the individual to be accommodated, identify potential accommodations and assess the effectiveness each would have in enabling the individual to perform the essential functions of the position
- Consider the preference of the individual to be accommodated and select and implement the accommodation that is most appropriate for both the employee and the employer

DIFFICULT TO IDENTIFY ACCOMMODATIONS

- The individual may not know enough about the equipment used or the nature of the worksite to suggest an appropriate accommodation. Likewise, the employer may not have enough knowledge of the person's disability or the limitations that disability would impose on the performance of the job to know which accommodation would work. In such a situation, the employer should first assess the job by analyzing the actual duties of the position to determine what is the true purpose or object of the job, and what are the essential functions of the job that the individual with a disability must perform with or without reasonable accommodation
- Then, in consultation with the individual, the employer should assess the specific limitations imposed by the disability on the person's performance of the job's essential functions
- If the consultation still does not reveal accommodation options, the employer should seek technical assistance from relevant local and regional sources such as: state or local vocational rehabilitation agencies or commissions for the blind, independent living centers, technology assistance centers, or specific rehabilitation professionals.

Transparency 4C

TOTAL COST OF ACCOMMODATION

Cost	Frequency of Response	
	Number	Percent
None	458	51.1
\$1-99	169	18.5
\$100-499	109	11.9
\$500-999	57	6.2
\$1,000-1,999	39	4.3
\$2,000-4,999	35	3.8
\$5,000-9,999	9	1.0
\$10,000-14,999	8	0.9
\$15,000-19,999	6	0.7
\$20,000-or more	15	1.6
Total for which cost was reported	915	100.0

*From: Harold Russell Associates. *A Study of Accommodations Provided to Handicapped Employees by Federal Contractors*. Prepared for the U.S. Department of Labor, Employment Standards Administration (contract J-9-E-1-0009), June, 1982.

PRACTICES TOWARD ACCOMMODATION

- Involving workers with disabilities in their own accommodation processes
- Expressions of commitment by top management to accommodating workers with disabilities
- Assigning a specialist within Human Resources
- Establishing special procedures for reviewing and tracking
- Centralizing recruiting, intake, and monitoring of hiring decisions
- Identifying jobs or task assignments where a specific disability is not necessarily a hindrance
- Developing orientation for workers with disabilities, and their supervisors and coworkers
- Spreading the word inside the firm about successful experiences in accommodation
- In-service training of personnel staff, line managers, supervisors, and coworkers about nondiscrimination and accommodation

Transparency 4D (2 of 2) Continued

- Outreach to outside organizations able to refer job applicants with disabilities and to provide information on appropriate accommodations
- Sharing information and experiences about accommodations with other firms
- Continually reevaluating accommodations for current relevance to job requirements and the needs of the individual

INDIVIDUALS MAY NEED SUPPORT IN THESE AREAS:

Cognitive Abilities

Attention
Memory
Learning
Organization
Ability to Understand
Prioritizing

Concentration
Reasoning
Following Directions
Insight
Problem Solving
Decision Making

Physical Abilities

Mobility
Vision
Fine Motor Coordination
Coordination of Body and Limbs

Endurance and Strength
Hearing
Speech Intelligibility
Gross Motor Coordination

Behavioral and Emotional Abilities

Social Interactions
Affect
Control
Self-Esteem/Worth

Tolerance
Temperment
Emotional Stability
Sexuality

COGNITIVE ABILITIES

- Break duties into smaller steps
- Create a checklist of duties and/or steps to be followed
- Provide written instructions to support verbal instructions
- Restructure job position, exchange tasks
- Allow for instructional/training redundancy
- Photograph elements of job sequence to use as reference
- Replace written job testing or selection instruments with demonstration
- Provide/allow job coaching
- Train supervisors to provide honest and clear feedback
- Capitalize on employees strength and teach through that strength
- Use assistive technology if appropriate (records, computers, timers)
- Provide significant level of structure for job performance and communication
- Assign a co-worker as a mentor for support and as a role model
- Train co-workers how to best support individual

PHYSICAL ABILITIES

- Create an accessible work station
- Convert verbal communication to written communication
- Provide sign language interpreters
- Install adaptive telephone equipment
- Provide transport carts
- Adapt floor covering for easy mobility
- Exchange tasks to minimize need to move around
- Provide adaptive equipment
- Train co-workers in alternative modes of communication
- Allow flexible scheduling for outside appointments
- Allow for extra time in completing certain tasks
- Provide readers or have co-workers share this task
- Conduct trainings and other events in accessible locations

BEHAVIORAL AND EMOTIONAL ABILITIES

- Be consistent with your interactions
- Provide praise and positive reinforcement
- Identify and train a co-worker support team
- Allow longer or more frequent breaks
- Provide employee assistance programs
- Allow employee to work at home
- Provide immediate and consistent feedback
- Allow for flexible scheduling
- Provide easy access to a supervisor
- Allow telephone calls to family or others for support
- Provide clear expectations of job duties and work behaviors and consequences for not meeting them
- Allow for individual space
- Provide training for co-workers to support employee
- Allow employee to take lunch/breaks in private area

ACCOMMODATIONS--AN EVOLVING PROCESS

- A successful accommodation is a beginning, not an ending. Reasonable accommodation is an evolving process. People do not remain static, so neither should the accommodation(s). Follow-up and feedback are important steps in order to meet individual's changing needs.

IN REGARD TO ACCOMMODATIONS, REMEMBER THAT:

- Employers are not required to accommodate individuals with disabilities by eliminating the essential functions of the job.
- Employers are required to make reasonable accommodations only to "known physical or mental limitations".
- There must be a nexus between an individual's disability and the need for an accommodation.
- Employers may require documentation for "hidden" disabilities or for reasonable accommodation when the need is not obvious.
- An employer or covered entity may not compel an individual to accept an accommodation.
- The preference of the individual with a disability should be given primary consideration - However, the employer has the ultimate discretion to choose between effective accommodations.

Transparency 4J (2 of 2) Continued

- An individual's willingness to provide his/her own accommodation does not relieve the employer of the duty to provide the accommodation.
- Reasonable accommodations must be determined on a case-by-case basis to determine whether they constitute undue hardship.
- While employers are not required to accommodate individual with disabilities by eliminating the essential functions of the job, employers can explore the possibility of task re-design to either: decrease the number of physical manipulations required; decrease the number of discriminations required; decrease the number of steps to be sequenced; increase the distinctiveness of cues; and/or other considerations.

UNIT FIVE

PROVIDING SUPPORTS AS PART OF THE ACCOMMODATION PROCESS

**Definition of
Supports**

5
min

5A

Note: Prior to conducting this session it is critical that the trainer have some background knowledge of the natural supports movements. Toward this end we have provided an Appendix in the Participant's Manual (B) with some further readings on this topic.

Explain to participants that our lives are comprised of a diverse array of mechanisms which sustain and maintain us (Additional information pertaining specifically to this topic is available in Murphy & Rogan, 1992). These mechanisms are commonly referred to as supports. Using

Transparency 5A review with participants some examples of the form they can take as outlined below:

- Verbal and Physical Assistance
- Social Relationships
- Verbal / Non-Verbal Interactions
- Backing
- Patronage
- Promotion
- Foundation
- Bracing
- Defense
- Justification
- Reasoning
- Subsidy
- Advocacy
- Endurance
- Tolerance

Further Points To Discuss:

- ☐ *This array of support mechanisms assist us in obtaining, maintaining and progressing in certain avenues of our lives*
- ☐ *Typically these supports are stand alone or paired together to bring about a certain outcome or set of goals*
- ☐ *It is important to recognize that while supports are meant to enhance our lives, they can at times become barriers and pose implications for achieving goals which we desire to pursue.*
- ☐ *While we typically think of supports provided in American Society as being somewhat exhaustive in nature, creatively paired together, the array of supports available in any one persons life are to numerous to be counted.*
- ☐ *Pairing of supports to meet individual needs creates a limitless array of possibilities, which if based on the person's needs, can foster a sense of belonging and connectedness to the environment the support is being provided in.*

Unit Five

Explain that while there is currently much debate going on at the national level regarding definition of "natural supports" and what quantifies a natural support, for our purposes we refer to supports which are naturally-inherent to an environment. Given the following example to illustrate this point:

Example:

If a person is starting a position as a supported employment recipient and the employer offers every employee a full-day of initial orientation to the job, then we want that employer to provide the same orientation to the employee with a disability. This would be a support naturally-inherent to that situation as compared to a job coach simply providing in lieu of what the employer provides.

However,

If an employer provides no initial orientation to "any" employees and the employee we are placing needs a full-day orientation based on their support needs, the employee can request this as an accommodation. If it poses an undue hardship for the employer to provide this accommodation but they are willing to allow a job coach to provide it, it is still a support which is available through an inherent process, that being a dialogue of accommodations and supports the employer is willing to allow.

Ecology of the Workplace

3
min

5B

Ask participants to define what is meant by "Ecology of the Workplace". Tailor responses to highlight the three critical components: physical, social, and organizational ecology. Using Transparency #5B, outline the following points regarding the ecology of the workplace:

Physical Ecology is comprised of the architectural and physical designs of an environment that may effect behavior.

Social Ecology is comprised of the interactions and interrelationships that exist between and among individuals and/or groups within the employment context.

Organizational Ecology is comprised of those policy and program factors in an employment setting that may influence individual and/or group behavior.

Unit Five

Four Levels of Integration

4
min

5C

Explain to participants that within this three-dimensional ecological context exists four levels of integration which are critical to the successful assimilation of a person within a work environment. Using **Transparency 5C**, review the following levels of integration:

Physical Integration refers to the proximity of coworkers to one another.

Social Integration refers to non-work related social interactions during work and free time.

Relationships are classified as ongoing social interactions that are reciprocal and extend beyond work.

Social Networks are comprised of repeated contact with a number of people who identify a relationship with a specific person as socially important and critical to them.

NOTE: Typically, when considering the ADA and assisting persons with disabilities in obtaining and maintaining employment we have focused exclusively on the acquisition of job-specific tasks or essential job functions. While these are critical to successful employment and outlined clearly in the employment provisions (Title I) of the ADA, we now know that assuring a person's rights for access to equal employment opportunities and nondiscriminatory employment practices based on disability is but the first step in effective placement.

Definition of Work Culture

7
min

Emphasize that as important to the successful employment integration of a qualified individual with a disability as civil rights set forth in the ADA is the development of competency within the vocational rehabilitation practitioner to understand, evaluate, and make placement decisions based not only on the ecology of the workplace but also the culture. Explain to participants that as diverse the array of supports in a person's life is also the culture which comprises every workplace.

Further Points To Discuss:

- ☐ *Work culture is one step removed from the theories of workplace ecology to the implications posed by people's shared values within the workplace itself.*
- ☐ *Work culture is comprised of attitudes, experiences and subjective day-to-day occurrences.*
- ☐ *Becoming familiar with a given work culture is important because it gives the "flavor" of the work environment as a whole and helps the placement person understand what the critical factors are to ensuring the employees "full assimilation" into not just the work environment/place but its very culture.*

Unit Five

Referencing page 32 of the Participant Manual, discuss some features of work culture as outlined below:

- Work Stories
- Appearance / Dress
- Language
- Space
- Leadership Style
- Relationships / Cohesiveness
- Who's In Charge
- Status (Perceived and Self-Ascribed)
- Decision Making
- Humor
- Tricks of the Trade
- Level of Investment in Work
- Expectations of Performance
- Timing / Recurrent Conflicts
- History of Organization
- Gathering Places
- Eating Customs
- Celebrations
- Tolerance Level
- Flexibility
- Advocacy

NOTE: *Emphasize to participants that while this is not an exhaustive list, it begins to draw a picture of other features within the workplace which hold the difference between acceptance and assimilation and only physical integration or even rejection.*

Identifying Support Needs of Individuals with Disabilities

10
min

5D

Explain to participants that identifying an individual's support needs begins with identifying the potential job of interest to the person desiring to work. This process is not a blanket evaluation during which a person's capacities and "deficits" are identified separate from the employment situation. The opposite in fact. It is a person-centered, capacity-based process which begins with a group of invested players in the person's life assisting the individual in defining their interests and preferences, capacities and formulating a career pursuit plan. Using **Transparency 5D**, review the process outlined below for identifying support needs:

- Facilitate the development of a person-centered planning team.
- Establish ground rules and focus of the group based on consumer interests.

Unit Five

If interest in pursuing employment exists, then:

- Identify skills and capacities and prior experiences upon which to build (through vocational profile process, interviews, observation, record review, etc...);
- Develop a profile of "who" the person is, "where" they see themselves right now, and "what" directions they want to take in their life;
- Determine as a team the potential supports needed to achieve the above objectives;
- Initiate activities to secure family supports, residential supports, and other supports necessary to achieve the above objectives;
- Consider and identify, as a team, options in employment which will enable the person to realize their dream;
- Upon identifying employment option, begin determining persons qualification for meeting the requirements of the job and what supports are inherent available;
- Match available supports to support needs of the person to determine areas in which accommodation may need to be provided;
- Facilitate discussions regarding potential accommodations and supports (both inherent to the workplace and externally imposed); and
- Make decision based on consumer's interest, ability to meet job requirements and support plan developed as to whether this is a viable match.

Identifying Naturally-Inherent Supports within the Work Environment

13
min

Explain to participants that prior to imposing externally-imposed supports within the work environment it is critical to evaluate the availability of supports naturally inherent.

Further Points To Make:

- ☐ *Externally-imposed supports should only be used when the quality of available supports is not sufficient to sustain the person or when inherent supports are not available at all.*
- ☐ *Externally-imposed supports should be used to enhance, clarify and further distinguish supports available naturally.*

5E Using **Transparency 5E**, review the process outlined by Michigan State University by which we can force ourselves to explore typical activities and supports available within a given work environment:.

- *Goal.* Describe the individual's goal (e.g. Obtain a job in the community, making friends in the workplace, learning to use the bus, etc.).

Unit Five

- *Typical Activities.* Review the typical activities that people engage in to achieve that goal (e.g. What do we typically for to obtain job leads?). Consider age appropriateness, community standards, etc.
- *Typical supports.* Review the typical supports people receive for those activities. (e.g. Who would we contact for job leads, who would we tell about our job hunting?) Consider who provides what types of support, and under what circumstances.
- *Individual Assessment.* How can the individual participate in the typical activities (bullet two, above)? Which can he/she do fully? Which can he/she do partially? Are there any the person is not participating in at all? If so, why? Consider all of the possible strengths, skills, and experiences the individual brings to the typical activities.
- *Individual's Supports.* Of the typical supports (bullet three, above), which exist for the individual? Which might be facilitated? Describe the existing and potential natural supports for those typical activities.
- *Needs.* If there is a difference between what typically happens to meet the goal and what is currently possible for the person, describe what more is needed, consider: additional skills and experiences that the individual might need, and additional supports and accommodations that might be developed with typical/natural resources.
- *Service Provider's Role.* Determine the service provider's role in achieving the goal. When the typical supports are not enough the service provider may have a role in strengthening those supports, facilitating or organizing them or, as a last resort, providing the support directly.

Further explain that other tools to assist in identifying naturally-inherent supports include the same processes by which you would investigate work culture. Reference page 34 of the Participant's Manual for those processes:

- Spend time there.
- Interview employees (past and present).
- Observe interactions.
- Listen.
- Assess current human resources practices of employer.

Unit Five

Matching Available Supports to Person's Needs

4
min

5F

NOTE: *In many situations identifying a support "up-front" may reduce the need for requesting a reasonable accommodation later.*

Explain that as mentioned earlier, identifying supports at the beginning of the placement process may alleviate the need for provision of an accommodation down the road. Using **Transparency 5F**, explain the principles of matching:

- A support match is developed between the identified behaviors that require supports and the identified available or potential support inherent to the workplace.
- Always remain unobtrusive when evaluating what exists naturally. Your very presence may modify or alter performance.
- When facilitating a match, explore all possible support matched to ensure "best fit".
- When evaluating "best fit" the employee is always the litmus test.
- The employee is ultimately the one who will be accessing the support. If they are not comfortable, its effectiveness will not be maximized.

Benefits of Using Supports Naturally-Inherent to the Workplace

10
min

Solicit participants for what they see as potential benefits for using supports which are naturally-inherent to the workplace. Record responses on the flipchart.

Further Points To Discuss:

- ☐ *Natural Supports are as vast as the variety of supports.*
- ☐ *Using and facilitating these types of support is not simply a "practice", but rather a value which has at its very heart the inclusion and assimilation of a person with a disability into their natural environments.*

Examples of Some Supports Naturally-Inherent to a Work Environment

4
min

5G

Upon completion of the exercise, review the benefits outlined on page 34 of the Participant Manual.

Conclude this unit by reviewing examples of potential supports which may be inherent to some workplaces as outlined below and in **Transparency 5G**. If time allows, solicit participants again for any additional supports they can identify as being present within their own work environment.

Unit Five

- Performance Appraisal Systems
- Bells/ Alarms
- Orientation and Training
- Advice
- Car Pools
- Flexible Hours
- Social Interactions
- Employee Assistance Programs
- Performance and Verbal Prompts
- Public Transport
- Environmental Cues
- Co-workers
- Child Care
- Career Planning

Transparency 5A

POTENTIAL SUPPORTS

- . Verbal and Physical Assistance
- . Social Relationships
- . Verbal / Non-Verbal Interactions
- . Backing
- . Patronage
- . Promotion
- . Foundation
- . Bracing
- . Defense
- . Justification
- . Reasoning
- . Subsidy
- . Advocacy
- . Endurance / Tolerance

ransparency 5B

ECOLOGY OF THE WORKPLACE

Physical Ecology is comprised of the architectural and physical designs of an environment that may effect behavior.

Social Ecology is comprised of the interactions and interrelationships that exist between and among individuals and/or groups within the employment context.

Organizational Ecology is comprised of those policy and program factors in an employment setting that may influence individual and/or group behavior.

FOUR LEVELS OF INTEGRATION

Physical Integration refers to the proximity of coworkers to one another.

Social Integration refers to non-work related social interactions during work and free time.

Relationships are classified as ongoing social interactions that are reciprocal and extend beyond work.

Social Networks are comprised of repeated contact with a number of people who identify a relationship with a specific person as socially important and critical to them.

IDENTIFYING SUPPORT NEEDS

- Facilitate the development of a person-centered planning team.
- Establish ground rules and focus of the group based on consumer interests.

If interest in pursuing employment exists, then:

- Identify skills and capacities and prior experiences upon which to build (through vocational profile process, interviews, observation, record review, etc.);
- Develop a profile of “who” the person is, “where” they see themselves right now, and “what” directions they want to take in their life;
- Determine as a team the potential supports needed to achieve the above objectives;
- Initiate activities to secure family supports, residential supports, and other supports necessary to achieve the above objectives;
- Consider and identify, as a team, options in employment which will enable the person to realize their dream;

Transparency 5D (2 of 2) Continued

- Upon identifying employment option, begin determining persons qualification for meeting the requirements of the job and what supports are inherently available;
- Match available supports to support needs of the person to determine areas in which accommodation may need to be provided;
- Facilitate discussions regarding potential accommodations and supports (both inherent to the workplace and externally imposed); and
- Make decision based on consumer's interest, ability to meet job requirements and support plan developed as to whether this is a viable match.

IDENTIFYING NATURALLY-INHERENT SUPPORTS

- *Goal.* Describe the individual's goal
- *Typical Activities.* Review the typical activities that people engage in to achieve that goal
- *Typical supports.* Review the typical supports people receive for those activities.
- *Individual Assessment.* How can the individual participate in the typical activities?
- *Individual's Supports.* Of the typical supports , which exist for the individual?
- *Needs.* If there is a difference between what typically happens to meet the goal and what is currently possible for the person.
- *Service Provider's Role.* Determine the service provider's role in achieving the goal.

PRINCIPLES OF SUPPORT MATCHING

- A support match is developed between the identified behaviors that require supports and the identified available or potential support inherent to the workplace.
- Always remain unobtrusive when evaluating what exists naturally. Your very presence may modify or alter performance.
- When facilitating a match, explore all possible support matched to ensure “best fit”.
- When evaluating “best fit” the employee is always the litmus test.
- The employee is ultimately the one who will be accessing the support. If they are not comfortable, its effectiveness will not be maximized.

EXAMPLES OF NATURALLY-INHERENT SUPPORTS

- Performance Appraisal Systems
- Bells/ Alarms
- Orientation and Training
- Advice
- Car Pools
- Flexible Hours
- Social Interactions
- Employee Assistance Programs
- Performance and Verbal Prompts
- Public Transport
- Environmental Cues
- Co-workers
- Child Care
- Career Planning



UNIT SIX

OVERVIEW OF TITLE II

OVERVIEW OF TITLE II

Public Entity

2
min

6A Using **Transparency 6A**, define exactly what types of entities are covered.

- Any State or local government;
- Any department, agency, special purpose district, or other instrumentality of a State or States or local government; and
- Certain commuter authorities, and AMTRAK

NOTE: Regardless of the size of the public entity, they must comply with the regulations set forth by the ADA.

What Activities are Covered?

2
min

6B

Review this point and transition to **Transparency 6B**, which is an overview of what activities of the public entity are covered. These are self explanatory, but give examples if needed.

- The operation of all services and programs offered by the entity.
- All aspects of the employment relationship.
- Government services carried out by contractors.
- Activities of state and local legislative and judicial branches.
- Public Transportation

NOTE: Explain to participants that in determining what obligations a governmental or non-governmental entity has, find out where their funding comes from. If they receive State or Local funding, they have obligations under Title II, for federal funding, their obligations are under the 1973 Rehabilitation Act, and if they have private funding, then their access obligations for people with disabilities fall under Title III of the ADA.

General Nondiscrimination Requirements

5
min

6C

Explain to participants that the definition of disability for Title II entities is the same as we reviewed in Unit Three, Employment Provisions. Briefly review the three-prong definition or ask for audience participation for review.

Using **Transparency 6C**, explain that no qualified individual with a disability can be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.

Referring to page 36 of the Participant Manual, further explain that a public entity, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability—

Unit Six

- Deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit, or service;
- Afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;
- Provide a qualified individual with a disability with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to other

6C Using **Transparency 6C**, review the list of eight terms of nondiscrimination, explaining that each term will be discussed in further detail:

NOTE: Examples are provided, but these are not exhaustive. The Title II Technical Assistance Manual, available from the Department of Justice and the Title II Action Guide available from Adaptive Environments in Boston through a grant from National Institute on Disability and Rehabilitation Research both have solid examples on these and other Title II regulations.

6D Using **Transparency 6D**, review:

1. **Equal Opportunity.** Public Entities must provide individuals with disabilities equal opportunity to participate in those activities and programs provided by the entity. In addition to the equal opportunity to participate, the Public entity must ensure *effective* participation, providing separate benefits or services only when it is necessary to provide equal opportunity.
2. **Integrated Programs.** Services and programs of Public Entities must be delivered in the most integrated setting appropriate, even if separate programs exist. People with disabilities must have the right to choose to participate in either the "regular" or the separate programs.

Example:

If a person who uses a wheelchair wanted to tour a county museum of natural history and the museum offered a tour for people with disabilities and a tour for other patrons, the person can choose to participate with the tour that is not specified for people with disabilities.

3. **Methods of Administration.** Title II of the ADA requires that Public Entities do not use official written policies that are discriminatory or engage in actual practices that are discriminatory.

Unit Six

Example:

A county-run shelter for the homeless cannot have a policy that refuses participation to people who use wheelchairs.

6E Using Transparency 6E, explain

4. Contractors. In the selection of procurement contractors, public entities cannot use criteria that discriminate against people with disabilities.

Example:

A Village government cannot refuse to contract with a copying service that is run by people with disabilities simply because of their disabilities.

6F Using Transparency 6F, explain,

6. Reasonable Modification of Policies, Practices, and Procedures. Public entities must be willing to modify their policies, practices and procedures when necessary to avoid discrimination against people with disabilities unless to do so would fundamentally alter the nature of the service, program or activity.

Example:

If a local town requires that taxpayer pay their taxes in person, and a individual who is blind has a service animal, the town's policy of no animals, must be modified to allow the person entry into their offices.

7. Eligibility Criteria. Eligibility criteria that tends to screen out people with disabilities cannot be used unless such eligibility criteria is necessary for the provision of the services, program, or activity.

Example:

A recreation department cannot require that all participants in their aerobics class have full use of all of their arms and legs for determination of participation in their program.

Unit Six

Program
Accessibility

12
min

8. Surcharges. Public Entities are prohibited from assessing surcharges on people with disabilities to offset the cost of providing access.

Example:

A city pool cannot charge people with disabilities more to swim to offset the cost of the new pool lift they have purchased to provide access to the water.

6G

Using Transparency 6G, explain to participants the primary elements of Program Access. Program accessibility is the standard against which programs and services will be measured for purposes of ADA compliance. Different elements of program access include, access to existing facilities, fundamental alteration and undue burden, historic preservation, new construction and alterations, leases and maintenance of accessible features.

6H

Using Transparency 6H, review:

Access to Existing Facilities: People with disabilities cannot be excluded from the programs, activities or services offered by a public entity because of inaccessible features. The law permits some flexibility in how the standard can be met, by allowing both structural and non-structural methods of achieving program access, such as:

- Reassignments of services to accessible location
- Home visits
- Purchase of redesign equipment
- Structural change - this is the final step to achieve access, if other options are not possible. **Note:** Deadline for structural changes was January 26, 1995. In selecting an option, the priority is always on providing services in the most integrated way possible.

NOTE: *Making structural accessibility improvements to an existing facility is one means of achieving program accessibility. However, it is not required if there are alternative means of achieving program accessibility.*

6I

Transition to Transparency 6I and explain:

Undue Burden and Fundamental Alterations: No public entity is required to take action for provision of program access that would result in fundamental alteration of the program, service or activity or would pose an undue financial or administrative burden. If this is the case, then the entity is still obligated to search for alternative means of providing access so that

Unit Six

people with disabilities can still participate in the program, service, or activity.

Example:

If program access was not able to be accomplished for a child with a developmental disability in a county recreational program because the child is not able to leave their home, it may be considered a fundamental alteration of the program to move the entire recreational program to the child's home.

6J Transparency 6J:

New Construction and Alteration to Existing Facilities: All new construction and alterations to existing facilities must be readily accessible to and usable by people with disabilities. Two standards that are utilized are the ADA Accessible Guidelines, (ADAAG) and the Uniform Federal Accessibility Standards (UFAS). Final guidelines of the ADAAG specifically relating to Title II Entities have been issued by the ACCESS Board and are being utilized.

NOTE: Explain that public entities can elect to use either of these standards; however, under Title II, public centered entities cannot use the elevator exemption offered under the ADAAG under any circumstances. Both UFAS and ADAAG are based on model design standards generated by the American National Standards Institute and as a result, are quite similar.

6K Using Transparency 6K, review the following adding examples as needed:

Historic Preservation Programs: Buildings that are eligible for listing in the National Register of Historic Places or designated as historic under state or local law are treated as a special case under the ADA. These programs are not required to take any action that would threaten or destroy the historic significance of the property.

6L Using Transparency 6L, review the following adding examples as needed:

Leases: Title II regulations recommend but do not require that public entities try to lease accessible space. Facilities that are leased by a public entity are still subject to the overall program access standards.

Unit Six

- 6M Using Transparency 6M, review the following, illustrating with the example below:

Maintenance of Accessible Features: As a means of ensuring that ongoing access is provided, maintenance of accessible features is specifically required.

Example:

Accessible doors cannot be locked or blocked, this includes barriers such as snow in front of or along an accessible route that prohibits access.

**Effective
Communication**

7
min

- 6N With Transparency 6N, explain that public entities must provide applicants, participants, and members of the general public with disabilities have communication access that is equally effective as that provided to people without disabilities.
- 6O Transition from this to **Transparency 6O**, review overhead, highlighting auxiliary aids and services and structural communication features.
- 6P Proceed to **Transparency 6P** and review auxiliary aids as outlined below:
- Qualified interpreters, note takers, transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed captioned decoders, open and closed captioning, telecommunications devices for deaf persons (TTY's), Videotext displays, or other effective methods of marketing aurally delivered materials available to individuals with hearing impairments;
 - Qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments;
 - Acquisition or modification of equipment or devices; and
 - Other similar services and actions.
 - **For people with cognitive disabilities:** readers, communication assistants, use of clear and concise language, pictograms, and graphic presentation of information

NOTE: *A qualified interpreter is one who is able to interpret effectively, accurately, and impartially both receptively and expressively, using any necessary specialized vocabulary.*

Unit Six

**Guidelines for
Determination of
Provision of
Auxiliary Aids
and Devices**

3
min

6Q

Explain to participants using **Transparency 6Q**, that public entities are provided with a process by which they can determine how to provide auxiliary aids and devices.

- Public entities must give "primary consideration" to the preference of the person with a disability. *Note: In all of these processes, involvement of people with disabilities is integral.*
- Public entities must provide *effective* means of communication. *Note: If the process does not work, then other means have to be explored.*
- Public entities are not required to take actions that would cause undue burdens. *Note: Providing a sign language interpreter at every hourly tour for a county museum, regardless if there is a person who is in need of it, may be an undue hardship.*

**Factors that may
Influence
Whether a
Particular Aid of
Service Provides
Effective
Communication**

4
min

6R

Using **Transparency 6R**, explain the factors of determining effective communication. Provide examples if necessary.

The Duration and Complexity of the Communication

- Longer, more detailed exchanges often require more powerful and faster modes of communication.

The Context of the Communication

- Environmental conditions often influence the effectiveness of communications using various devices and techniques. For example, the difference between an indoor office setting and an outdoor recreational setting.

The Number of People Involved

- Communication techniques that are effective between two people may not work well in a group context.

The Importance and Potential Impact

- Some communications such as those involving legal, financial, health, and safety issues are more important than others and should be provided in ways that guard against errors, omissions, and misunderstandings.

Program on Employment and Disability

Unit Six

Structural Communication Features

2

min

6S

Using **Transparency 6S**, explain that communication feature that are structural are those that are fixed or built into the facility. They are not considered auxiliary aids, rather, they are part of the physical accessibility requirements. List the examples from the overhead to include.

Administrative Requirements

2

min

6T

Using **Transparency 6T**, review the process of administrative requirements of Title II entities. This is rather self explanatory, but if provide examples if needed.

- entities employing 50 or more must designate an ADA coordinator by 1/26/92
- entities employing 50 or more must adopt an ADA grievance procedure by 1/26/92
- non-structural changes for program accessibility must be initiated by 1/26/92
- public notice of non-discrimination policies must be provided as of 1/26/92
- entities employing 50 or more must prepare a transition plan describing structural changes required for program accessibility by 7/26/92
- all entities must conduct a self-evaluation of all programs and services by 1/26/93
- structural changes required for program accessibility must be completed by 1/26/95
- entities employing 50 or more must retain documentation of self-evaluation and transition plans, including individuals consulted, for three years.

NOTE: Even though all of these deadline dates have passed, public entities are encouraged to continue with the processes.

Self-Evaluation

2

min

6U

Using **Transparency 6U**, review the self-evaluation and provision of notice processes.

A public entity shall, by January 26, 1993, evaluate its current services, policies, and practices, and the effects thereof, that do not or may not meet the requirements of this part and, to the extent modification of any such services, policies, and practices is required, the public entity shall proceed to make the necessary modifications.

A public entity shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the self-evaluation process by submitting comments.

Program on Employment and Disability

Unit Six

Notice

1
min

A public entity shall make available to applicants, participants, beneficiaries, and other interested persons information regarding the provisions of this part and its applicability to the services, programs, or other activities of the public entity, and make such information available to them in such manner as the head of the entity necessary to apprise such persons of the protections against discrimination assured them by the Act and this part.

NOTE: Many different public entities are still reviewing their programs and should continue self-evaluation and notice efforts. This is an ongoing process.

Enforcement

3
min

6V

Using **Transparency 6V**, talk about the enforcement provisions of Title II.

There are three ways to seek resolution of a complaint against a state or local government entity:

- Utilize the entities grievance procedure
- File an administrative complaint, or
- File a lawsuit

Administrative complaints must be filed with the appropriate federal agency or with the Department of Justice within 180 days of the alleged discrimination. An appropriate federal agency may be any federal agency providing funding to the entity, or to the Department of Justice who will then forward the complaint to the appropriate entity. Complaints will be resolved by informal means or by a letter of findings that highlights actions necessary to remedy violations. If the dispute cannot be settled through negotiations, and the suit is sent back to the Department of Justice, then they themselves may file suit.

DEFINITION OF PUBLIC ENTITIES

- Any state or local government
- Any department, agency, special purpose district, or other instrumentality of a state or local government
- Certain commuter authorities and AMTRAK

WHAT ACTIVITIES ARE COVERED?

- The operation of all services and programs offered by the entity.
- All aspects of the employment relationship.
- Government services carried out by contractors.
- The activities of state and local legislative and judicial branches.
- Public transportation

Transparency 6C

GENERAL NONDISCRIMINATION REQUIREMENTS

- Equal Opportunity
- Integrated Programs
- Method of Administration
- Choice of Contractors
- Licensing and Certification
- Reasonable modification of policies, practices, and procedures
- Eligibility criteria
- Surcharges

EQUAL OPPORTUNITY

Title II Requirements of the Americans with Disabilities Act assure people with disabilities equal opportunity to participate in the programs and activities provided by those state and local governmental units. The right includes not only the opportunity to participate but also an opportunity that is equally effective.

INTEGRATED PROGRAMS

Services and programs must be delivered in the most integrated setting appropriate even if separate programs exist. If an entity of state and local government offers those separate programs (and regular programs), the entity cannot require that an individual with a disability participate in the separate program.

METHODS OF ADMINISTRATION

Title II of the ADA also requires public entities to not use official written policies that are discriminatory or engage in actual practices that are discriminatory. This includes but is not limited to the policies, practices, and procedures of such entity.

Transparency 6E

CHOICE OF CONTRACTORS

In the selection of procurement contractors, public entities cannot use criteria that discriminate against individuals with disabilities.

LICENSING AND CERTIFICATION

Qualified individuals with disabilities cannot be denied licensure or certification if the person meets the essential eligibility requirements for the task involved. These determinations must be made on a case by case basis. Public entities are also required to provide licensing examinations in an accessible place and manner, including the provision of auxiliary aids. In any such instance, public entities may not establish requirements for programs that are certified or licensed, that have the effect of limiting opportunities for participation for employment of people with disabilities.

REASONABLE MODIFICATION OF POLICIES, PRACTICES, AND PROCEDURES

Public entities must be willing to modify their policies, practices, and procedures when necessary to avoid discrimination against people with disabilities, unless to do so would fundamentally alter the nature of the service, program, or activity.

ELIGIBILITY CRITERIA

Eligibility criteria that tends to screen out people with disabilities cannot be used unless such eligibility criteria is necessary for the provision of the service, program, or activity.

SURCHARGES

Public entities are prohibited from assessing surcharges on people with disabilities to offset the cost of providing access.

Transparency 6G

PROGRAM ACCESSIBILITY

- Access to existing facilities
- Fundamental alteration and undue burdens
- Historic preservation programs
- New construction and alterations to existing facilities
- Leases
- Maintenance of accessible features

ACCESS TO EXISTING FACILITIES

People with disabilities cannot be excluded from the programs, activities, or services offered by a public entity because of inaccessible facilities. The law permits a public entity some flexibility in how the standard can be met, by allowing both structural and non-structural methods of achieving program accessibility such as:

1. Reassignment of services to an accessible location if the facility is not accessible.
2. Home visit
3. Purchase or redesign of equipment
4. Assignments of aids to beneficiaries
5. Structural changes to eliminate barriers

Making structural accessibility improvements to an existing facility is one means of achieving program accessibility. However, it is not required if there are alternative means of achieving program accessibility such as those described above.

FUNDAMENTAL ALTERATION AND UNDUE BURDENS

If achievement of overall program accessibility causes undue financial or administrative burdens on the entity or fundamentally alters the program or service, alternative means of achieving compliance must be sought to ensure that people with disabilities can participate in or receive the benefits of the program or activity.

NEW CONSTRUCTION AND ALTERATIONS TO EXISTING FACILITIES

All new construction and alterations to existing facilities must be readily accessible to and usable by people with disabilities. Two existing accessibility standards that are utilized:

- The ADA Accessibility Guidelines (ADAAG), or
- The Uniform Federal Accessibility Standard (UFAS)

Public entities can elect to use either of these standards; however, under Title II, public centered entities cannot use the elevator exemption offered under the ADAAG under any circumstances. Both UFAS and ADAAG are based on model design standards generated by the American National Standards Institute and, as a result, are quite similar.

HISTORIC PRESERVATION PROGRAMS

Buildings that are eligible for listing in the National Register of Historic Places or designated as historic under state or local law are treated as a special case under the ADA. These programs are not required to take any action that would threaten or destroy the historical significance of the property.

Transparency 6L

LEASES

Title II regulations recommend but do not require that public entities try to lease accessible space. Facilities that are leased by a public entity are still subject to the overall program access standards.

MAINTENANCE OF ACCESSIBLE FEATURES

As a means of ensuring that ongoing access is provided, maintenance of accessible features is specifically required. For example, accessible doors cannot be locked or blocked.

Transparency 6N

EFFECTIVE COMMUNICATION

Public entities are required that applicants, participants, and members of the general public with disabilities have communication access that is equally effective as that provided to people without disabilities.

Transparency 60

COMMUNICATION

Communication support must be provided in a manner that enables people with disabilities to participate on an equal basis with all others, unless to do so would result in a fundamental alteration to the program or activity or in undue financial or administrative burdens. Once areas that need improvement are identified, communication barriers can be eliminated through two primary means:

1. Auxiliary aids and services.
2. Structural communication features.

AUXILIARY AIDS

Auxiliary aids and services may include a wide variety of equipment, materials, and personal services that may be used to provide effective communication for people with visual, hearing, speech, or cognitive disabilities.

Visual Disabilities

- Large print materials. All printed materials
- Braille
- Audio tapes
- Readers
- Computer diskettes
- Radio reading services and telephone tapes

Hearing or Speech Disabilities

- Telephone amplifiers
- Captioning
- TTY/Teletype
- Telecommunication relay services
- Assisted listening systems
- Interpreters
- Computer/Aided real/time reporting (CART)

Cognitive Disabilities

- Readers
- Communication assistants
- Use of clear and concise language
- Pictograms
- Graphic presentation of information

GUIDELINES FOR DETERMINATION OF PROVISION OF AUXILIARY AIDS AND DEVICES

- Public entities must give “primary consideration” to the preference of the person with the disability.
- Public entities must provide effective means of communication.
- Public entities are not required to take actions that would cause undue burdens.

Transparency 6R

FACTORS THAT MAY INFLUENCE WHETHER A PARTICULAR AID OR SERVICE PROVIDES EFFECTIVE COMMUNICATION ARE:

The Duration and Complexity of the Communication

Longer, more detailed exchanges often require more powerful and faster modes of communication.

The Context of the Communication

Environmental conditions often influence the effectiveness of communications using various devices and techniques. For example, the difference between an indoor office setting and an outdoor recreational setting.

The Number of People Involved

Communication techniques that are effective between two people may not work well in a group context.

The Importance and Potential Impact

Some communications such as those involving legal, financial, health, and safety issues are more important than others and should be provided in ways that guard against errors, omissions, and misunderstandings.

STRUCTURAL COMMUNICATION FEATURES

Communication features that are structural in nature are those fixed or built into the facility.

- flashing signals to inform people with hearing disabilities of a fire alarm
- tactile signage with raised letters to enable people with visual disabilities to use an elevator panel or identify restrooms, specific room locations, and exits
- sound amplification devices such as public address systems and amplified receivers to increase the audible information that people with limited hearing are able to perceive
- FM broadcast systems to transmit amplified sound to people with limited hearing or descriptive information to people with limited vision

ADMINISTRATIVE REQUIREMENTS

- entities employing 50 or more must designate an ADA coordinator by 1/26/92
- entities employing 50 or more must adopt an ADA grievance procedure by 1/26/92
- non-structural changes for program accessibility must be initiated by 1/26/92
- public notice of non-discrimination policies must be provided as of 1/26/92
- entities employing 50 or more must prepare a transition plan describing structural changes required for program accessibility by 7/26/92
- all entities must conduct a self-evaluation of all programs and services by 1/26/93
- structural changes required for program accessibility must be completed by 1/26/95
- entities employing 50 or more must retain documentation of self-evaluation and transition plans, including individuals consulted, for three years.

SELF-EVALUATION

A public entity shall, by January 26, 1993, evaluate its current services, policies, and practices, and the effects thereof, that do not or may not meet the requirements of this part and, to the extent modification of any such services, policies, and practices is required, the public entity shall proceed to make the necessary modifications.

A public entity shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the self-evaluation process by submitting comments.

NOTICE

A public entity shall make available to applicants, participants, beneficiaries, and other interested persons information regarding the provisions of this part and its applicability to the services, programs, or other activities of the public entity, and make such information available to them in such a manner as the head of the entity necessary to apprise such persons of the protections against discrimination assured them by the Act and this part.

ENFORCEMENT

There are three ways to seek resolution of a complaint against a state or local government entity:

- Utilize the entities grievance procedure
- File an administrative complaint, or
- File a lawsuit

Administrative complaints must be filed with the appropriate federal agency or with the Department of Justice within 180 days of the alleged discrimination. An appropriate federal agency may be any federal agency providing funding to the entity, to the Department of Justice.

UNIT SEVEN

OVERVIEW OF TITLE III

OVERVIEW OF TITLE III

Introduce participants to the obligations of Title III entities under the ADA. Explain to them that the definition of disability under this title is the same utilized under the two previous titles.

Coverage

2

min

7A

Using Transparency 7A, explain the coverage of Title III entities:

- Public Accommodations
- Other Commercial Facilities
- Entities offering Courses or Examinations

General Obligations

5

min

7B

Using Transparency 7B, explain further that a public accommodation is a PRIVATE entity that:

owns,
operates,
leases, or
leases to a place of public accommodation

NOTE: The "leases to" provisions is important in that it means that both the land lord and tenant are public accommodations with responsibilities under the ADA

7C Exploring further, use Transparency 7C to cover the three areas of obligation.

Further Points to Discuss:

1. General Prohibition of Discrimination. Clearly state that no individual with a disability shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages or accommodations of a place of public accommodation.
2. Effective Communication. Public entities have the same obligations for effective communication as stated in Unit 6.
3. Facility Accessibility. Usually pertaining to physical access for people with disabilities.
 - Removal of Barriers
 - New Construction and Alterations

Unit Seven

NOTE: Talking about facility accessibility, it is believed by some that the regulations primarily surround wheelchair accessibility. Confirm that Title III is not just about wheelchair access. Barrier removal for people who are blind or visually impaired and for people who are deaf and hard of hearing as well as for those with other types of mobility impairments are extensively covered in the ADA Accessibility Guidelines. General prohibition of discrimination and the terms of effective communication are equally important. Physical facility accessibility gains much attention because of the regulations being extensive and rather technical in nature.

Existing Facilities

3
min

7D

Using Transparency 7D, explain the principles of existing facilities and alternative means of access.

As of January 26, 1992, facilities must undertake "barrier removal" where "readily achievable". Readily achievable means able to do without much difficulty or expense. If barrier removal is not readily achievable, alternative means of access must be provided. Examples are:

- curbside service
- home delivery
- retrieval of goods

NOTE: Explain that all of these services must be done without additional charge to the individual, unless it would pose an undue burden.

Place of Public Accommodation

2
min

7E

Transparency 7E lists all twelve categories of public accommodations. Review each category, refer to page 41 in the Participant Manual for additional examples.

NOTE: Remind participants that this list is exhaustive. If a facility does not fall under one of these twelve categories, it is not considered a public accommodation under the ADA.

Commercial Facilities

2
min

7F

Using Transparency 7F, review the criteria for commercial facilities under Title III.

Commercial Facilities are facilities that:

- Are non-residential
- Whose operations affect commerce

Unit Seven

For Example:

Office Buildings, Factories, Warehouses

Exemptions:

Facilities that are covered or expressly exempted from coverage from the Fair Housing Amendments Act of 1968 (as amended, 1988)

Example:

Owner-occupied rooming houses providing living quarters for four or fewer families, which are exempt from the Fair Housing Act, would not be commercial facilities.

Aircraft or rail vehicles

NOTE: *Private air terminals are not considered places of public accommodation because the ADA statutory language exempts air transportation, but private air terminals are considered commercial facilities and are subject to the new construction and alterations requirements of Title III. Also, the retail stores and service establishments located within a private airport are places of public accommodation.*

Further Points To Discuss:

- ☐ *A building may contain both commercial facilities and places of public accommodation.*

Example:

A office building may have 10 offices, two of which fall under the criteria for public accommodations. Those two offices, including the path of travel to those offices is covered under the obligations of Title III of the ADA.

Additional Example:

A commercial facility such as a furniture factory is not open to the general public aside from the tour that they conduct through selected areas of the facility. The route that the tour takes within the facility and the operation of the tour must comply with obligations of public accommodations under Title III of the ADA.

Unit Seven

Exemptions

3
min

7G

Review Transparency 7G and exemptions for access under the ADA.

- Private clubs
- Religious Entities, including secular and religious activities

NOTE: Non-profit organizations are not exempt from ADA obligations
Criteria for Private Clubs Exemption:

1. Members exercise control
2. Membership process is selective
3. Fees are substantial
4. Operation is non profit
5. Purpose is not to avoid civil rights law

NOTE: Private clubs that rent their space out to the general public for activities such as weddings lose their exemption status and are required to comply with the ADA Title III obligations and undertake barrier removal measures where readily achievable, for provision of access for those public programs and services.

Example:

A club has a public restaurant and private swimming and tennis areas. The restaurant is obligated to be accessible under Title III of the ADA; the private areas are not.

Other
Requirements

7
min

7H

The following principles and transparencies describe various portions of the requirements of Title III Public Accommodations. Review these with participants as follows:

Transparency 7H--Policies, Practices and Rules must be reasonably modified to accommodate the needs of people with disabilities unless such modifications are not readily achievable. Auxiliary aids and services may also be required.

Example:

If a person with a cognitive disability is unable to read and goes to a restaurant, that facility must be willing to provide assistance to their customer to access the wares on their menu, either by providing a pictorial menu, or a reader.

7I

Transparency 7I--New facilities designed and constructed must be accessible, as per the requirements in the ADA Accessibility Guidelines. Follow the rest of the transparency and provide examples as needed.

Unit Seven

Elevators are not required in newly constructed or altered buildings under three stories or with less than 3000 square feet per floor, unless the building is a shopping center, mall, or health provider's office. The Attorney General may determine that additional categories of such buildings require elevators.

NOTE: Compare this information to your State's building code for any additions.

7J **Transparency 7J--**Alterations to existing facilities must be readily accessible to and usable by people with disabilities in accordance with ADAAG to the maximum extent feasible. Alterations changes the usability of the facility. It includes: remodeling, renovation, rearrangements in structural parts, and changes of walls and full-height partitions. When alterations to primary function areas are made, an accessible path of travel must be provided to the altered area, and the restrooms, telephone and drinking fountains serving the altered area must also be accessible. This must be done to the extent that the added accessibility costs are not disproportionate to the overall alterations costs. That is to the extent that the added accessibility costs do not exceed 20 percent of the cost of the original alteration to the primary function area.

7K **Transparency 7K--**Architectural and communication barriers in existing facilities must be removed if removal is "readily achievable," and can be undertaken without much difficulty or expense. If not, alternative methods of providing services must be offered, if those methods are readily achievable.

Further Points to Discuss:

a. **Factors to be considered in determining if an action is "readily achievable" are similar to those considered to establish "undue hardship" under Section 503 and 504, although a significantly reduced burden is imposed, i.e., can barrier removal be undertaken without much difficulty or expense?**

b. **Priorities for barrier removal are:**

- (1) access/egress
- (2) areas where goods/services are available
- (3) restrooms
- (4) other areas/services

7L **Transparency 7L--**Examinations and Courses. Any private entity that offers examinations or courses has specific obligations for access for people with disabilities under the ADA. Their requirements apply to applications, licensing, certification or credentialing for secondary or post secondary education.

Unit Seven

Enforcement

8
min

7M

professional or trade purposes. The courses and exams must be offered in an accessible place and manner; they must measure those indicators that are intended to be measured, not a disability; if readily achievable, they must provide those aids and services needed for effective communication; and can require advance request of need for accommodations, if the deadline for requests is not earlier for the person with a disability than other participants.

Transparency 7M discusses enforcement provisions. Review these with participants.

Aggrieved parties may seek enforcement against private entities by:

- filing a complaint with the Department of Justice
- filing suit in Federal District Court

Suits by the Department of Justice may be filed after a negotiation period is ineffective and when there is reasonable cause to believe that a pattern and practice of discrimination exists and when the alleged discrimination raises a matter of general public importance. Civil penalties may be assessed:

- not to exceed \$50,000 for the first violation
- not to exceed \$100,000 for subsequent violations

Money damages to individuals may be awarded when requested by the Department of Justice.

Review **Transparency 7M** with participants and discuss issues of private lawsuits.

Further points to discuss:

Private lawsuit remedies include:

- restraining orders
- injunctions
- attorneys' fees

Compensatory, or punitive damages, or civil penalties are not available.

Transparency 7A

PRIVATE ENTITIES

PRIVATE ENTITIES COVERED UNDER TITLE III OF THE ADA

- **Public accommodation**
- **Other commercial facilities**
- **Entities offering courses or examinations**

Transparency 7B

PUBLIC ACCOMMODATIONS

Private Entity that owns, operates, leases, or leases to a place of public accommodation. "Leases or leases to" means both landlord and tenant are public accommodations with ADA responsibilities.

Transparency 7C

Three areas of obligation:

1. Nondiscrimination obligations
2. Effective communication
3. Facility accessibility
 - Removal of barriers
 - New construction and alterations

Transparency 7D

EXISTING FACILITIES

As of January 26, 1992, facilities must undertake "barrier removal" where "readily achievable". If barrier removal is not readily achievable, they must provide alternative means of access. Examples of alternative means of access include:

Curbside Service

Home Delivery

Retrieval of Goods

All without additional charge to the individual.

Transparency 7E

PLACES OF PUBLIC ACCOMMODATION

A facility offering goods, services, or activities to the public, fall into one of twelve categories:

1. Places of lodging
2. Establishments serving food or drink
3. Places of exhibition or entertainment
4. Places of public gathering
5. Sales or rental establishments
6. Service establishments
7. Public transportation facilities
8. Places of public display or collection
9. Places of recreation
10. Places of education
11. Social Services establishments
12. Places of exercise or recreation

COMMERCIAL FACILITIES

Commercial Facilities are facilities that:

- Are non-residential
- Whose operations affect commerce

Exemptions:

- Facilities that are covered or expressly exempted from coverage from the Fair Housing Amendments Act of 1968, (as amended in 1988)
- Aircraft or rail vehicles

Title III requirements for new construction and alterations apply to commercial facilities.

Transparency 7G

EXEMPTIONS

- Private clubs
- Religious entities, including secular and religious activities

Criteria for Private Clubs Exemption:

- Members exercise control
- Membership process is selective
- Fees are substantial
- Operation is non profit
- Purpose is not to avoid civil rights law

Transparency 7H

POLICIES, PRACTICES, AND RULES OF PUBLIC ACCOMMODATIONS

Must be reasonably modified to accommodate the needs of people with disabilities unless such modifications are not readily achievable.

Auxiliary aids and services may also be required.

NEW CONSTRUCTION

All new facilities designed and constructed must be accessible as per the ADA Accessibility Guidelines.

This includes commercial facilities and public accommodations in private residences.

No cost defense for non-compliance

ELEVATORS

Elevators are not required in newly constructed or altered buildings under three stories or with less than 3000 square feet per floor, *unless* the building is:

- a shopping center,
- mall,
- health care provider,
- public transit station, or
- airport passenger terminal.

ALTERATIONS TO EXISTING FACILITIES

An alteration changes the usability of a facility. It includes:

- remodeling
- renovation
- rearrangements in structural parts
- changes of walls and full-height partitions

All alterations undertaken after January 26, 1992, must be readily accessible and usable by people with disabilities to the maximum extent feasible. The cost of accessibility to the primary function areas should not exceed 20 percent of the cost of the original alteration.

Transparency 7K

ARCHITECTURAL AND COMMUNICATION BARRIERS

Barriers in existing facilities must be removed if removal is "**readily achievable**," meaning, can be undertaken without much difficulty or expense.

Priorities for barrier removal are:

- (1) access/egress
- (2) areas where goods/services are available
- (3) restrooms
- (4) other areas/services

EXAMINATIONS AND COURSES

- courses and exams must be offered in an accessible place and manner
- exams relating to licensing must measure the factors that it purports to measure and must reflect the individual's aptitude or achievement, not a disability
- they must provide those aids and services needed for effective communication unless doing so would fundamentally alter the exam or result in undue burden, and
- can require an advance request for accommodation, if the deadline for requests is not required before the deadline for others applying to take the exam.

Transparency 7M

ENFORCEMENT

Enforcement of Title III of the ADA may be made by:

- filing a complaint with the Department of Justice
- filing suit in Federal District Court

Suits by the Department of Justice may be filed:

- after a negotiation period is ineffective and
- when there is reasonable cause to believe that a pattern and practice of discrimination exists and when the alleged discrimination raises a matter of general public importance.

Civil penalties may be assessed:

- not to exceed \$50,000 for the first violation
- not to exceed \$100,000 for subsequent violations

Money damages to individuals may be awarded when requested by the Department of Justice.

PRIVATE LAWSUITS

Remedies include:

- restraining orders
- injunctions
- attorneys' fees

Compensatory, or punitive damages, or civil penalties are not available.

APPENDIX A

DIRECTORY OF ILLINOIS STATE ADA RESOURCES

DIRECTORY OF ILLINOIS STATE RESOURCES

Americans with Disabilities Act Information, Technical Assistance and Enforcement:

Coalition of Citizens with Disabilities in Illinois
401 East Adams Street
Springfield, IL 62702
VOICE/TDD/TTY: 217-522-7016
VOICE/TDD/TTY: 800-433-8848

Centers for Independent Living
(See complete listing under Centers for Independent Living)

Equal Employment Opportunity Commission
1801 L Street, N.W.
Washington, DC 20507
VOICE: 800-669-4000
TTY/TDD: 800-800-3302

Chicago District Office
536 South Clark Street, Room 930-A
Chicago, IL 60605
VOICE: 312-353-2713
VOICE: 800-669-4000
TTY-TDD: 312-353-2421

St. Louis District Office
624 North Euclid Street, 5th Floor
St. Louis, MO 63108
VOICE: 314-425-6585
VOICE: 800-669-4000
TTY/TDD: 314-279-6547

Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554
VOICE: 202-632-7260
TTY/TDD: 202-632-6999

Great Lakes Disability and Business Technical
Assistance Center
1640 West Roosevelt Road
Chicago, IL 60608
VOICE/TTY/TDD: 800-949-4232

Illinois Department of Rehabilitation Services
VOICE/TTY/TDD: 1-800-ASK DORS
(1-800-275-3677)

Illinois Planning Council on Developmental
Disabilities
830 South Spring
Springfield, IL 62704
VOICE: 217-782-9696

Job Accommodation Network
918 Chestnut Ridge Road, Suite 1
P. O. Box 6080
Morgantown, WV 26506-6080
Accommodation Information:
VOICE/TTY/TDD: 800-526-7234
ADA Information:
VOICE/TTY/TDD: 800-232-9675

President's Committee on Employment of
People with Disabilities
1331 F Street, N.W.
Washington, DC 20004
VOICE: 202-376-6200
TTY/TDD: 202-376-6205

U.S. Department of Justice
Civil Rights Division
Office on the Americans with Disabilities Act
P. O. Box 66118
Washington, DC 20035-6118
VOICE: 202-514-0301
TTY/TDD: 202-514-0381

U.S. Department of Transportation
400 7th Street, S.W.
Washington, DC 20590
VOICE: 202-366-4390
TTY/TDD: 202-366-2979
TTY/TDD: 202-755-7687

DIRECTORY OF ILLINOIS STATE RESOURCES

(Continued)

Americans with Disabilities Act Financial Incentives and Information:

ADA Compliance Program for City of Chicago
Miriam Santos City Treasurer
Room 206 City Hall
Chicago, IL 60602
312-744-3360

Provides loans to Chicago-based businesses to
comply with the ADA

U.S. Small Business Administration
300 South Riverside Plaza, Suite 1975 South
Chicago, IL 60606
312-353-0359

Internal Revenue Service
U.S. Department of the Treasury
1111 Constitution Avenue, N.W.
Washington, DC 20224
VOICE: 202-566-3292
TTD: 202-829-4059
Provides information on tax credits and tax
deductions for businesses to comply with the
ADA

Centers for Independent Living:

Access Living of Metropolitan Chicago
310 South Peoria
Chicago, IL 60607
VOICE: 312-226-5900
TDD: 312-226-1687

Central Illinois Center for Independent Living
614 West Glen
Peoria, IL 61614
VOICE: 309-682-3500
TDD 309-682-3567

DuPage County Center for Independent Living
400 East 22nd Street
Lombard, IL 60148
VOICE/TDD: 708-916-9666

Fox River Valley Center for Independent Living
730 B. West Chicago Street
Elgin, IL 60123
VOICE/TDD: 708-695-5818

Illinois-Iowa Center for Independent Living
P. O. Box 6156
Rock Island, IL 61204-6156
VOICE/TDD: 319-324-1460

Impact Center for Independent Living
2735 East Broadway
Alton, IL 62002
618-462-1411

Lake County Center for Independent Living
706 East Hawley
Mundelein, IL 60060
708-949-4440

Living Independently for Everyone (LIFE)
1328 East Empire
Bloomington, IL 51701
VOICE: 309-663-5433
TDD: 309-663-8806

Living Independently Now Center for
Independent Living
10 East Washington
Belleville, IL 62220
VOICE/TDD: 618-235-9988

Northwestern Illinois Center for
Independent Living
205 Second Avenue
Sterling, IL 61081
VOICE: 815-625-7860
TDD: 815-625-7863

DIRECTORY OF ILLINOIS STATE RESOURCES

(Continued)

Opportunities for Access

3300 Broadway

Mount Vernon, IL 62864

VOICE: 618-244-9212

TDD: 618-244-9575

Options Center for Independent Living

61 Meadowview Center

Kankakee, IL 60901

VOICE/TDD: 815-936-0100

Persons Assuming Control of Their Environment

(PACE)

Sunnycrest Mall

Urbana, IL 61801

VOICE: 217-344-5433

TDD: 217-344-5024

Progress Center for Independent Living

320 West Lake Street

Oak Park, IL 60302

VOICE: 708-524-0600

TDD: 708-524-0690

Regional Access and Mobilization Project (RAMP)

1040 North Second Street

Rockford, IL 61107

VOICE/TDD: 815-968-7567

Southern Illinois Center for Independent Living

100 North Glenview

P. O. Box 627

Carbondale, IL 62903

VOICE/TDD: 618-457-3318

Soyland Access to Independent Living (SAIL)

1800 East Lake Shore Drive

Decatur, IL 62521

217-362-9060

Springfield Center for Independent Living

426 West Jefferson

Springfield, IL 62702

VOICE/TDD: 217-523-2587

West Central Illinois Center for Independent Living

Durst Building

406 North 24th Street

Quincy, IL 62301

VOICE: 217-223-0400

TTY: 217-223-0475

Will/Grundy Center for Independent Living

2415 A West Jefferson Street

Joliet, IL 60435

VOICE: 815-729-0162

TDD: 815-729-2085

APPENDIX B

REFERENCES AND SUGGESTED READINGS ON NATURAL SUPPORTS

Excerpted in part from materials developed under the project entitled, "Using Natural Worksite Supports to Enhance Supported Employment Outcomes," funded by the National Institute on Disability and Rehabilitation Research grant #H133G00159-92. A collaborative project between: the National Center for Disability Services Research and Training Institute; the Program on Employment and Disability in the School of Industrial and Labor Relations at Cornell University; and the New York State Education Department Vocational and Educational Services for Individuals with Disabilities.

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MODULE IV

PARTICIPANT MANUAL

This Module may be reproduced for dissemination to individuals participating in ADA training as outlined in this curriculum.

Developed by the staff and faculty of Cornell University's *Program on Employment and Disability*

The compilation of these materials was made possible by a grant from the Illinois Planning Council on Developmental Disabilities in collaboration with the Great Lakes Disability and Business Technical Assistance Center at the University of Illinois at Chicago (Grant No. 9411) to Cornell University's Program on Employment and Disability to serve as an *ADA Materials Development and Training Project*.

PARTICIPANT MANUAL

THE ADA AND PERSONS WITH COGNITIVE DISABILITIES

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MISSION AND VALUES

Cornell is a learning community that seeks to serve society by educating the leaders of tomorrow and extending the frontiers of knowledge.

In keeping with the founding vision of Ezra Cornell, our community fosters personal discovery and growth, nurtures scholarship and creativity across a broad range of common knowledge, and engages men and women from every segment of society in this quest. We pursue understanding beyond the limitations of existing knowledge, ideology, and disciplinary structure. We affirm the value to individuals and society of the cultivation and enrichment of the human mind and spirit.

Our faculty, students and staff strive toward these objectives in a context of freedom with responsibility. We foster initiative, integrity, and excellence, in an environment of collegiality, civility and responsible stewardship. As the land grant university for the State of New York, we apply the results of our endeavors in service to the community, the state, the nation and the world.

The Program on Employment and Disability, in the School of Industrial and Labor Relations, holds strongly to these values. Our mission is to provide a learning environment which cultivates and facilitates inclusive and accessible communities for individuals with disabilities. We seek to provide resources and information to individuals attempting to manage diversity in the workplace, community, and American life. We are committed to ensuring that Americans with disabilities, including youth, are provided with an opportunity to attain their goals in settings, environments, cultures and communities of their own choosing--based on their respective interests, preferences, capacities and available supports needed to attain these ends.

**I would found an
institution where
any person can
find instruction in
any study.**

Ezra Cornell, 1865

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Great Lakes DBTAC
University of Illinois at Chicago

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**Program
Coordinators and
Instructors**

CONTACT INFORMATION

AGENDA

Day One

The ADA and Persons with Cognitive Disabilities

- 9:00 a.m. Introduction / Housekeeping
- 9:05 a.m. Opening Remarks / Welcome
- 9:15 a.m. Evolution and Trends in the Disability Movement
- Transition from Institutions to Community
 - Person-Centered, Capacity-Based Services and Supports
 - Critical Values in Supporting People with Disabilities
- 10:00 a.m. Overview of the ADA
- Summary of the ADA
 - Overview of ADA Coverage
 - Findings and Purposes
 - Related Civil Rights Legislation
 - Rehabilitation Act of 1973
- 10:15 a.m. Overview of Title I
- ADA Employment Provisions and Key Definitions
 - Covered Entities
 - Definition of Disability
 - Areas in which Discrimination is Prohibited
 - Discriminatory Actions
 - Hiring Practices
- 10:45 a.m. Break
- 11:00 a.m. Overview of Title I (*continued*)
- Medical Examinations
 - Confidentiality
 - Health Insurance
 - Reasonable Accommodation
 - Essential Job Functions
 - Evidence for Determining Essential Functions
 - Undue Hardship
 - Direct Threat
 - Enforcement
 - Remedies / Defenses
 - Beyond ADA Requirements
- 11:30 a.m. Reasonable Accommodation Process
- Reasonable Accommodation Video
 - Process for Determining an Accommodation
 - Cost of Accommodation
 - Practices Toward Accommodation
 - Selected Examples of Accommodations

Program on Employment and Disability

12:30 p.m. *Lunch*

1:30 p.m. Providing Supports as Part of the Accommodation Process

- Ecology of the Workplace
- Four Levels of Work Integration
- Definition of Work Culture
- Identifying Support Needs of Individuals with Cognitive Impairments
- Identifying Naturally-Occurring Supports within the Work Environment
- Matching Available Supports / Accommodations to Persons with Cognitive Impairments
- Benefits of Using Naturally-Occurring Supports / Accommodations
- Accommodation Case Studies

2:30 P.M. Overview of Title II

- General Prohibitions Against Discrimination
- Public Entity
- Program Accessibility
- Auxiliary Aids and Services
- Administrative Requirements
- Self Evaluation
- Notice

3:15 p.m. *Break*

3:30 p.m. Overview of Title III

- General
- Places of Public Accommodation
- Specifics

4:00 p.m. Summary and Conclusions

4:15 p.m. Demographic Survey
Training Impact Survey

4:30 p.m. End of Day One

INTRODUCTION

UNIT ONE

EVOLUTION AND TRENDS IN THE DISABILITY MOVEMENT

**Transition from
Institutions to
Community**

Over the last century we have seen a major evolution in the way individuals with disabilities are perceived, interacted with, treated and supported. From the late 1800s and the reform model to the medical and development model of the 1950s and 70s we now enter the functional supports era of service and supports delivery for individuals with disabilities. As the models have evolved and fostered societal acceptance of disability and individuals with disabilities have been afforded the opportunity to fill their roles in society as productive citizens, the accomplishments of people with disabilities cannot be refuted.

While medical and expert models of rehabilitation have focused on "decreasing perceived deficits" through "systems control", the functional supports model has built upon the past successes in integrated living and employment options to ensure individuals with disabilities person-centered services and supports focusing on "natural connectedness" to ones community. This evolution in rehabilitation service delivery has been strongly supported by federal mandates set forth in several key pieces of legislation including the: Individuals with Disabilities Education Act with its increased emphasis on inclusion and effective transition planning; the Rehabilitation Act of 1973 as amended in 1992 with its increased emphasis on choice and empowerment; and last, but not least, the Americans with Disabilities Act of 1990 ensuring community living and working access for all American Citizens regardless of disability.

The functional supports model starts with some basic questions:

- What does the person want?
- What are the persons dreams and aspirations?
- What is the person good at?
- What kinds of things does the person dislike?
- How does the person define quality?
- What does the person need to achieve desired outcomes?
- Where do the person want to live?
- Where does the person want to work?
- What types of family and social connections does the person desire?
- What types of experiences has the person had to assist them in answering the above?

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Prior to understanding the current implications posed by the functional supports era, person-centered service delivery and the values base and supports defined within the ADA, it is important for key players in the disability arena to understand the differences between the developmental and functional supports model. These key players include: the rehabilitation practitioner, person with a disability, family member, advocate, educator, and other key players in the disability field.

Understanding the differences in the two models will assist the individual in gaining an understanding of "where" service providers "stand" in their own evolution of the services and supports they provide to individuals with disabilities. This will further assist the individual in making informed decisions regarding where to access services and how to use civil rights legislation afforded them in the ADA to access their communities.

Upon reviewing the comparison below, it becomes evident to the reader that the functional supports model promotes the access of individuals with disabilities to live, work and recreate in their communities as productive citizens. This facilitates a movement away from our current "community-based system" which falls short of true integration and inclusion of persons with disabilities into their communities.

Developmental / Functional Supports Model Comparison

<u>Developmental Model</u>	<u>Functional Supports Model</u>
Development of Prerequisites	"Pre" Means Never
Continuum-Focused	Array of Choices Based on Preferences
Deficit-Based	Capacity-Based
Behavior Must Be Controlled	Environmental Causation
Constant Services	Services and Supports As Needed
System-Centered	Person-Centered
Maximize Disability	Minimize Disability Through Capacity
Regulations Determine Quality	Person Determines Quality
Controlled	Competitive
Congregate Care	Inclusion
Fit to Program	Fit to Person

Unit One

Person-Centered, Capacity-Based Services and Supports

One of the major differences that sets apart service and supports delivery in the 1990s from the '70s is the emphasis on redefining quality considerations. This movement toward quality redesign did not begin within the disability and/or rehabilitation sector but rather a national initiative within the world of business focusing on total quality management or continuous quality improvement. This national trend began with several basic assumptions:

- Identify services and supports for delivery which are interest and preferred by the customer;
- Develop common goals toward delivery of these identified services and supports;
- Empower personnel to achieve these goals;
- Empower citizens instead of taking care of them (consumers v. clients); and
- Customer satisfaction will be dictated by desired and achieved outcomes.

We quickly learned in the rehabilitation and the disability community that this focus on continuous quality improvement couldn't just be set forth in a mission statement, but rather needed to be lived and practiced on a daily basis. It further defined for us that in order to have the disability/rehabilitation field to be impacted, services and supports delivered must be selected, driven and directed by the recipient of the services. Person-centered services are just that. Services and supports designed and implemented based on the preferences, interests, capacities and support needs of the person being served. A variety of methods for designing and implementing these type of person-centered services and supports exist with a heavy emphasis on team planning.

This array of person-centered and capacity-based services and supports have at their heart a core set of values which drive their delivery, including: recognition of individuality; presumption of inclusion and integration; individual capacity; personal competence; person-specific indices of satisfaction; quality of life features; individual interdependence; environmental causation of behavior; cultural context; holistic participation; community connectedness; dignity of risk; personal empowerment; and other values which are held dear to American Life.

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Critical Values in Supporting People with Disabilities

As human beings we desire nothing more than to be connected to our community and feel we have a contribution to make. With the passing of the ADA, the emphasis on full-inclusion, community integration and accessibility have been set forth. Establishing a public law which stipulates the unlawfulness of discriminating against individuals with disabilities in a variety of settings and activities of daily life promotes the importance of our connectedness in American society. With inclusion, integration, accommodation and accessibility as the underlying premise of the ADA comes the importance of establishing, modifying and refining service and supports delivery systems into vehicles which facilitate these premises.

ADA Findings

Based on the *Findings and Purposes* of the ADA as set forth by the Congress, the lack of equity for person with disabilities to access and be connected to their communities became evident. Section 2, *Findings and Purposes of the Conference Report* follow:

- (a) FINDINGS. -- The Congress finds that --
- (1) Some **43,000,000** Americans have one or more physical or mental disabilities, and this number is increasing as the population as a whole is growing older;
 - (2) Historically, society has tended to **isolate and segregate** individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem;
 - (3) **Discrimination** against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services;
 - (4) Unlike individuals who have experienced discrimination on the basis of race, color, sex, national origin, religion, or age, individuals who have experienced discrimination on the basis of disability have often had **no legal recourse** to redress such discrimination;
 - (5) Individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of **architectural, transportation, and communication barriers**, overprotective rules and policies, failure to make modifications to existing facilities and practices,

Unit One

exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities;

- (6) Census data, national polls, and other studies have documented that people with disabilities, as a group, occupy an inferior status in our society, and are severely **disadvantaged socially, vocationally, economically, and educationally**;
- (7) Individuals with disabilities are a discrete and insular minority who have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of **political powerlessness** in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society;
- (8) The Nation's proper goals regarding individuals with disabilities are to assure **equality of opportunity, full participation, independent living, and economic self-sufficiency** for such individuals; and
- (9) The continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and **costs the United States billions of dollars** in unnecessary expenses resulting from dependency and nonproductivity.

These findings lay a ground work which facilitates the development and evolution of the following critical values necessary to effectively support persons with disabilities.

- | | |
|-----------------------------|----------------------|
| • Include and Integrate | • Independent Living |
| • Equality of Opportunity | • Full Participation |
| • Economic Self-Sufficiency | • Legal Recourse |

UNIT TWO

OVERVIEW OF THE AMERICANS WITH DISABILITIES ACT OF 1990

OVERVIEW OF THE ADA OF 1990

The federal Americans with Disabilities Act of 1990 (ADA) is one of the most sweeping pieces of landmark legislation for persons with disabilities since the Rehabilitation Act of 1973. The law prohibits discrimination against qualified persons with disabilities in employment, government programs and services, public accommodations and services and in telecommunications. This piece of legislation is not an affirmative action law, but rather sets forth the federal guidelines prohibiting discrimination against individuals with disabilities which are designed to guarantee qualified persons with disabilities a "level playing field" in all of the areas listed above.

The ADA promotes the concept of full-inclusion for individuals with disabilities, and stresses empowerment, dignity, respect, and independence. This guide has been developed to aid people in understanding not just their responsibilities to individuals with disabilities, but also the rights with which every person with a disability is endowed. The understanding of rights as well as responsibilities is critical because not only do people in general have a unique opportunity to empower those persons with disabilities with whom they interact, but also because everyone is potentially eligible to join the disability constituency.

Summary of the ADA

Title I—Employment. Requires that people with disabilities have an equal opportunity to compete for jobs for which they are qualified. Employers must make prescreening and hiring practices accessible and make reasonable accommodations so that qualified individuals with disabilities can perform the essential functions of their jobs in a reasonable manner, if the provision of such accommodations does not impose an undue hardship.

Title II—Public Service. States that no qualified person with a disability shall be denied the benefits or excluded from participation in services, programs, or activities of state and local governments. It parallels section 504, requiring non-discrimination in employment, program accessibility and equally effective communications.

Title III—Public Accommodations and Services. Prohibits discrimination on the basis of disability by private entities in places of public accommodation, requires that all new places of public accommodation and commercial facilities be designed and constructed so as to be readily accessible to and usable by persons with disabilities; that "readily achievable barrier removal" be undertaken in existing inaccessible public accommodations, and requires that examinations or courses related to licensing or certification for professional trade purposes be accessible to persons with disabilities.

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Title IV—Telecommunications. Requires that interstate and intrastate telecommunications relay services be provided for individuals with hearing and speech impairments. It also contains an important provision requiring that any television public service announcement produced or funded in part by any agency or instrumentality of the federal government must include closed captioning of the verbal content of such public service announcements.

Title V—Miscellaneous Provisions. Includes several miscellaneous provisions which cover insurance and health benefit plans, technical assistance plans surrounding the ADA, minimum guideline standards to be issued by the Architectural and Transportation Barriers Compliance Board, plan for accessibility of wilderness areas, language which amends the Rehabilitation Act of 1973, and alternative means of dispute resolution.

Overview of the ADA Coverage

The Americans with Disabilities Act provides civil rights protection to individuals with disabilities, similar to that provided to individuals on the basis of race, sex, national origin and religion. It guarantees equal opportunities for individuals with disabilities in the areas of

- employment
- state and local government services
- public transportation
- privately operated transportation available to the public
- places of public accommodation
- telephone services offered to the general public

Related Civil Rights Legislation

The Americans with Disabilities Act joins the following major civil rights laws:

Civil Rights Act (1957). The first civil rights bill since Reconstruction, PL 85-315 made it a federal crime to prevent persons from voting in federal elections and authorized the attorney general to bring suit when a person was deprived of his voting rights.

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Civil Rights Act (1964). The most sweeping antibias law, PL 88-352 barred discrimination in employment on the basis of race, sex, religion, and national origin; in public accommodations and federally funded programs on the basis of race, color, religion, or national origin; and created the Equal Employment Opportunity Commission.

Voting Rights Act (1965). PL 89-110 authorized the appointment of federal examiners to register voters in areas found to have been discriminating and strengthened penalties for those who interfered with others' right to vote.

Age Discrimination in Employment Act (1967). PL 90-202 prohibited job discrimination against workers or job applicants aged forty to sixty-five. It was amended in 1975 (PL 94-135) to bar age bias in federally assisted programs, and in 1986 (PL 99-592) to prohibit mandatory retirement in most jobs.

Fair Housing Act (1968). PL 90-284 prohibited discrimination on the basis of race, color, religion, or national origin in the sale or rental of most housing. It also included provisions to protect civil rights workers from injury or intimidation and provided for federal penalties for those convicted of rioting or encouraging others to do so.

Rehabilitation Act of 1973. Section 503 required that recipients of federal grants greater than \$2,500 institute affirmative action programs to hire and promote "qualified individuals with disabilities," where as Section 504 stated, "No otherwise qualified individuals with disabilities. . . shall, solely by reason of his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

Civil Rights Restoration Act (1988). Overriding President Reagan's veto, congress in PL 100-259 overturned a 1984 Supreme Court ruling that anti sex-discrimination provisions of the 1972 Education Act Amendments applied only to the specific program or activity receiving federal aid and not to the entire institution. In reversing *Grove City College v. Bell*, Congress also specified that antibias provisions of three other laws applied to entire institutions if any segment received federal funding. The three were the 1964 Civil Rights Act, Section 504 of the 1973 Rehabilitation Act, and the 1975 Age Discrimination Act.

Fair Housing Act Amendments (1988). PL 100-430 gave the Department of Housing and Urban Development greater authority to enforce the 1968 law prohibiting housing bias against the handicapped and families with children.

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**Rehabilitation
Act of 1973 as
Amended in 1992**

The Rehabilitation Act further promotes the premises set forth in the ADA with the following principles and policies:

- Respect for individual dignity, personal responsibility, self-determination, and pursuit of a meaningful career, based on the informed choice of individuals with disabilities.
- Respect for privacy, rights and equal access of individual with disabilities.
- Inclusion, integration, and full-participation of individuals with disabilities.
- Support for the involvement of the family, advocates or authorized representatives, if desired, or requested by the individual with a disability.
- Support for individual and systemic advocacy and community involvement.

Findings of the Amendments include the goals of providing individuals with disabilities the tools necessary to make informed choices and decisions and achieve equality of opportunity, full inclusion, and integration in society, employment, independent living, and economic and social self-sufficiency.



UNIT THREE

OVERVIEW OF TITLE I

OVERVIEW OF TITLE I

ADA Employment Provisions and Key Definitions

Coverage of Businesses. Employers with 15 or more employees, employment agencies, labor organizations, or joint labor management committees engaged in an industry affecting commerce. Employers with fewer than 15 employees are exempted.

Definition of "Disability." Physical or mental impairment that substantially limits one or more major life activities; a record of such an impairment; being regarded as having such an impairment.

Qualified Individual with a Disability. An individual with a disability who, with or without *reasonable accommodation*, can perform the *essential functions* of the employment position. The essential functions are tasks that are fundamental, not marginal.

Discrimination. No place of employment shall discriminate against a *qualified individual with a disability* with regard to application procedures, hiring or discharge of employees, or other terms, conditions, and privileges of employment.

Reasonable Accommodation. Modifications to the job application process, the work environment or job that will enable the qualified individual with a disability to perform the essential functions of the job or that will enable a qualified individual with a disability to enjoy equal benefits and privileges of employment. Employers do not need to provide accommodations if they can demonstrate that doing so would result in an *undue hardship*.

Undue Hardship. The ADA requires that a reasonable accommodation be made, where requested, unless the employer can demonstrate that the accommodation would impose an undue hardship on the operation of the business (Sec. 102(b)(5)(A)). The term "undue hardship" means an action requiring significant difficulty or expense, when considered in light of size of business, number of employees, type of business, and nature and cost of accommodation.

Covered Entities Under Title I

- Effective July 26, 1994, an employer is anyone having *fifteen or more* employees
- Covered entities include private employers, state and local governments, employment agencies, and labor unions

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Definition of Disability

- Exceptions to this coverage are employers with fewer than 15 employees, the United States government, Indian tribes, and a bona fide private membership club (other than a labor organization) that is exempt from taxation under Section 501 (c) of the Internal Revenue Code of 1986

The ADA is modeled after Section 504 of the Rehabilitation Act of 1973 and states what disability means with respect to an individual:

A physical or mental impairment that *substantially limits* one or more *major life activities of such individual*. Physical or mental impairment means

- Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine
- Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities

"Substantially limits" means

- Unable to perform a major life activity that the average person in the general population can perform
- Significantly restricted as to the condition, manner, or duration under which an individual can perform a particular major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform that same major life activity

Major life activities means

- Functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working

An individual is also defined as having a disability if he or she has a *record* of such an impairment or (this part of the definition protects people who have a history of a disability from discrimination, whether or not they currently are substantially limited in a major life activity) or is *regarded* as having such an impairment (this part of the definition protects people who are *not* substantially limited in a major life activity from discriminatory actions taken because they are perceived to have such a limitation).

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Drug and Alcohol Abuse

The ADA does not consider the following to be disabilities:

- Homosexuality, bisexuality, transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders.
- Compulsive gambling, kleptomania, and pyromania.
- An individual who is engaged in the illegal use of drugs at the time of an adverse employment action where the employer acts on the basis of such drug use. Persons with psychoactive substance use disorders resulting from current illegal use of drugs also are not protected by the ADA. (However, an individual who is engaged in or has completed drug rehabilitation and is no longer illegally using drugs would be considered protected under the ADA.)

The ADA specifically permits employers to ensure that the workplace is free from the illegal use of drugs and the use of alcohol, and to comply with other federal laws and regulations regarding alcohol and drug use. At the same time, the ADA provides limited protection from discrimination for recovering drug addicts and for alcoholics.

Overview of Legal Obligations

- An individual who is currently engaged in the illegal use of drugs is not an "individual with a disability" when the employer acts on the basis of such use
- An employer may prohibit the illegal use of drugs and the use of alcohol at the workplace
- It is not a violation of the ADA for an employer to give tests for the illegal use of drugs
- An employer may discharge or deny employment to persons who currently engage in the illegal use of drugs
- An employer may not discriminate against a drug addict, who is not currently using drugs and who has been rehabilitated, because of a history of drug addiction
- A person who is an alcoholic is an "individual with a disability" under the ADA

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Areas in Which Discrimination is Prohibited

- Employees who use drugs or alcohol may be required to meet the same standards of performance and conduct that are set for other employees
- Employees may be required to follow the Drug-Free Workplace Act of 1988 and rules set by federal agencies pertaining to drug and alcohol use in the workplace

- Hiring
- Promotions and transfers
- Training
- Compensation
- Fringe benefits
- Layoffs
- Terminations

Substantially Limits

An impairment that prevents an individual from performing a major life activity substantially limits that major life activity. An impairment is also substantially limiting if it significantly restricts the condition, manner, or duration under which an individual can perform a particular major life activity as compared to the average person in society.

The regulation describes several factors that should be considered in determining whether an impairment is substantially limiting: nature and severity of the impairment; duration or expected duration of the impairment; and permanent or long-term impact, or the expected permanent or long-term impact of, or resulting from, the impairment.

In specific reference to the major life activity of working, the EEOC regulation lists certain additional factors for determining whether the limitation is "substantial":

- The geographical area to which the individual has reasonable access
- The job from which the individual has been disqualified because of an impairment, and the number and types of jobs using similar training, knowledge, skills, or abilities, within that geographical area, from which the individual is also disqualified because of the impairment (class of jobs)

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**Physical or
Mental
Impairment**

The job from which the individual has been disqualified because of an impairment, and the number and types of other jobs not using similar training, knowledge, skills or abilities, within that geographical area, from which the individual is also disqualified because of the impairment (broad range of jobs in various classes)

Persons are not substantially limited in working just because they are unable to perform a particular job for one employer or because they are unable to perform a specialized job or profession requiring extraordinary skill, prowess, or talent.

The ADA regulations define "physical or mental impairment" as any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of several body systems, or a mental or psychological disorder.

Whether a person has a disability should be assessed without regard to the availability of auxiliary aids, medicines, or other "mitigating measures." Under this regulation, someone with hearing loss would be defined as having a disability even if the condition were correctable with the use of hearing aid.

"Impairment" does *not* include simple physical characteristics such as eye color; hair color; left-handedness; or height, weight, or muscle tone that are within "normal" range and are not the result of a physiological disorder. Nor does the definition include common personality traits such as poor judgment or a quick temper where these are not symptoms of a mental or psychological disorder. Environmental, cultural, or economic disadvantages such as poverty, lack of education, or a prison record are not impairments. Advanced age, in and of itself, is also not an impairment. However, various medical conditions commonly associated with age, such as hearing loss, osteoporosis, or arthritis would constitute impairments within the meaning of these regulations.

**Who is a
"Qualified
Individual With a
Disability"?**

An employer is not required to hire or retain an individual who is not qualified to perform a job. The regulations define a *qualified individual with a disability* as a person with a disability who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.

There are two basic steps in determining whether an individual is "qualified" under the ADA:

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- Determine if the individual meets necessary prerequisites for the job such as education, work experience, training, skills, licenses, certificates, and other job-related requirements such as good judgment or ability to work with other people
- Determine if the individual can perform the *essential functions* of the job, *with or without reasonable accommodation*. This second step, a key aspect of nondiscrimination under the ADA, has two parts:
 - Identifying *essential functions of the job*
 - Considering whether the person with a disability can perform these functions, unaided or with a *reasonable accommodation*

The ADA requires an employer to focus on the essential functions of a job to determine whether a person with a disability is qualified. This is an important nondiscrimination requirement. Many people with disabilities who can perform essential job functions are denied employment because they cannot do things that are only marginal to the job.

Otherwise qualified. If however, an individual meets all job prerequisites except those that she or he cannot meet because of a disability, and alleges discrimination because she or he is "otherwise qualified" for a job, the employer must show that the requirement that screened out this person is "job-related and consistent with business necessity," including that no reasonable accommodation would enable the individual to meet the requirement or perform the essential functions of the job.

Actions by an Employer that Constitute Unlawful Discrimination

- An employer cannot classify or segregate employees or job applicants with disabilities in such a way that their employment or promotional opportunities are different from those of other employees
- An employer will be liable if an employment agency, executive recruiter, union, or insurance or other fringe benefits provider with whom the employer has a contract discriminates against applicants or employees.
- An employer cannot discriminate against an applicant or employee because that person is related to or has an association with a person with a disability. This means that an employer may not refuse to hire someone because his or her spouse or child has a disability or he or she lives with a relative who has a disability

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- An employer cannot refuse to make a reasonable accommodation to assist an employee or applicant with a disability unless doing so would cause an undue hardship
- Similarly, an employer cannot refuse to hire or promote someone because he or she will require a reasonable accommodation
- An employer cannot use employment tests or criteria that tend to screen out applicants with disabilities unless the test is job-related and consistent with business necessity
- An employer must make certain that when a test is administered to an applicant or employee with a disability that impairs sensory, manual, or speaking skills, the test results accurately reflect whatever skills or aptitude the test was designed to measure, rather than the individual's disability-impaired skills, unless these skills are the focus of the test

Hiring Practices

*Examples of questions that are **permitted** during the interview process.*

- ✓ Are you able to perform these tasks with or without reasonable accommodation?
- ✓ This job requires working varied schedules. Can you do that?
- ✓ Can you lift up to 50 pounds with or without accommodation?
- ✓ Can you tell me about the duties of your last job?

*Examples of questions that are **prohibited** during the interview process.*

- ✓ Why are you using a wheelchair?
- ✓ Have you ever had a mental illness?
- ✓ Do you have a disability or illness that I should know about?
- ✓ Have you ever been hospitalized? If so for what reason?
- ✓ How many days were you absent from work last year due to illness?
- ✓ Have you ever filed for workers' compensation insurance?
- ✓ Have you ever been treated for any medical condition?

Unit Three

Medical Examinations at Employment Entrance

Under the ADA it is illegal to conduct medical exams before an employment offer. Additionally, an employer may not make disability-related inquiries or ask about workers' compensation history at a pre offer stage. A covered entity may require a medical examination (and/or inquiry) after making an offer of employment to a job applicant before beginning his or her employment duties, and may condition an offer of employment on the results of such examination (and/or inquiry), if all entering employees in the same job category are subjected to such an examination (and/or inquiry) regardless of disability. If the employer withdraws an offer based on exam results, the employer must be able to prove that:

- The exclusionary criterion does not screen out or tend to screen out an individual with a disability or a class of individuals with disabilities
- The exclusionary criterion is job-related and consistent with business necessity and no reasonable accommodation will enable the person to perform the essential functions of the job

Confidentiality and Limitations on Use of Medical Information

Although the ADA does not limit the nature or extent of post-offer medical examinations and inquiries, it imposes very strict limitations on the use of information obtained from such examinations and inquiries. These limitations also apply to information obtained from examinations or inquiries of employees.

All information obtained from post-offer medical examinations and inquiries must be collected and maintained on separate forms, in separate medical files, and must be treated as a confidential medical record. Therefore, an employer should not place any medically related material in an employee's personnel file. The employer should take steps to guarantee the security of the employee's medical information, including

- Keeping the information in a medical file in a separate, locked cabinet, apart from the location of personnel files
- Designating a specific person or persons to have access to the medical file

All medically related information must be kept confidential, with the following exceptions:

- Supervisors and managers may be informed about necessary restrictions on the work or duties of an employee and necessary accommodations

Unit Three

Health Insurance and Other Employee Benefit Plans

- First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment or if any specific procedures are needed in the case of fire or other evacuations
- Government officials investigating compliance with the ADA and other federal and state laws prohibiting discrimination on the basis of disability or handicap should be provided relevant information on request
- Relevant information may be provided to state workers' compensation offices, "second injury" funds, or workers' compensation insurance carriers in accordance with state workers' compensation laws
- Relevant information may be provided to insurance companies that require a medical examination to provide health or life insurance for employees

An employer or other covered entity may not limit, segregate, or classify an individual with a disability, on the basis of disability, in a manner that adversely affects the individual's employment. This prohibition applies to the provision and administration of health insurance and other benefit plans such as life insurance and pension plans. This means that

- Employees with disabilities must be given equal access to whatever insurance or benefit plans the employer provides
- An employer cannot deny insurance to an individual with a disability or subject an individual with a disability to different terms or conditions of insurance, based on disability alone, if the disability does not pose increased insurance risks. Nor may the employer enter into any contract or agreement with an insurance company or other entity that has such effect
- An employer may continue to offer health insurance plans that limit reimbursements for certain types of drugs or procedures, even if these restrictions adversely affect individuals with disabilities, as long as the restrictions are uniformly applied without regard to disability
- An employer cannot fire or refuse to hire an individual with a disability because the employer's current health insurance plan does not cover the individual's disability, or because the individual may increase the employer's future health care costs

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- An employer cannot fire or refuse to hire an individual (whether or not that individual has a disability) because the individual has a family member or dependent with a disability that is not covered by the employer's current health insurance plan, or that may increase the employer's future health care costs.
- Where an employer provides health insurance through an insurance carrier that is regulated by state law, it may provide coverage in accordance with accepted principles of risk assessment and/or risk classification, as required or permitted by such law, even if this causes limitations in coverage for individuals with disabilities
- Similarly, self-insured plans that are not subject to state law may provide coverage in a manner consistent with basic accepted principles of insurance risk classification, even if this results in limitations in coverage to individuals with disabilities
- An employer may continue to offer health insurance plans that contain pre-existing condition exclusions, even if this adversely affects individuals with disabilities, unless these exclusions are being used as a subterfuge to evade the purpose of the ADA
- An employer may continue to offer health insurance plans that limit coverage for certain procedures, and/or limit particular treatments to a specified number per year, even if these restrictions adversely affect individuals with disabilities, as long as the restrictions are uniformly applied to all insured individuals, regardless of the disability
- The area of employer-provided and labor union—provided health insurance is still evolving and may not be firmly settled until a case is decided by the U.S. Supreme Court
- Another potential development that may dramatically alter the law on this issue would be the enactment of a federal universal health care program

Reasonable Accommodation

The practice of providing "reasonable accommodation" for a qualified applicant or employee with a disability is not new in the ADA. Since the 1970s, "reasonable accommodation" has been required by the regulations of the Equal Employment Opportunity Commission, the Office of Federal Contract Compliance Programs, and the Department of Justice to implement rules for non-discrimination in employment pursuant to sections 501, 503, and 504, respectively, of the Rehabilitation Act of 1973.

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Making "reasonable accommodation" to the known physical or mental limitations of a qualified applicant or employee with a disability is generally regarded as a key to the successful employment of persons with disabling conditions. The ADA defines "reasonable accommodation" as efforts that may include

- Making existing facilities used by employees accessible to individuals with disabilities
- Job restructuring
- Part-time or modified work hours
- Reassignment to a vacant position
- Acquisition or modification of equipment or devices
- Appropriate adjustment or modifications of examinations, training materials, or policies
- Provision of qualified readers or interpreters
- Other similar accommodations for individuals with disabilities

There are three categories of reasonable accommodation:

- Modifications or adjustments to a *job application process* that enables a qualified individual with a disability to be considered for the position he or she desires
- Modifications or adjustments to the *work environment*, or to the manner or circumstances under which the position held or desired is customarily performed, that enables a qualified individual with a disability to perform the essential functions of that position
- Modifications or adjustments that enable a covered entity's employee with a disability to enjoy *equal benefits and privileges of employment* as are enjoyed by its other similarly situated employees without disabilities

Essential Job Functions

"Essential functions" are the fundamental job duties of the employment position the individual holds or desires. The term does not include the marginal functions of the position. To be a qualified individual with a disability in the employment context, the applicant or employee must be able to perform the essential functions of the job with or without reasonable accommodation.

Unit Three

Factors That Make a Function Essential

The inquiry into whether a particular function is essential focuses initially on whether the employer actually requires employees in the position to perform the functions that the covered entity asserts are essential.

If the individual who holds the position is actually required to perform the function the employer asserts is essential, the inquiry will then center on whether removing the function would fundamentally alter that position. This determination of whether a particular function is essential will generally include one or more of the following factors listed in the EEOC regulation:

- Whether the reason the position exists is to perform a specific function. Someone may be hired for the sole purpose of proofreading documents. The ability to proofread the documents would then be an essential function (probably the only one) of that job, because that is the reason the position was created.
- The number of other employees available to perform that job function, or among whom the performance of that job function can be distributed. This may be a factor because either the total number of employees is low or because of the fluctuating demands of business operation.
- Degree of expertise or skill required to perform the function. In certain professions and highly skilled positions, employees are hired for their expertise or ability to perform the particular function. In such situation, the performance of that specialized task would be an essential function.

**Evidence for
Determining
Whether a
Function is
Essential**

The ADA regulation names the following factors that may be used as relevant evidence:

- The employer's judgment as to which functions are essential
- Written job descriptions prepared before advertising or interviewing applicants for the job
- Amount of time spent on the job performing the function

(*Example:* If an employee spends the vast majority of time working at a cash register, this would be evidence that operating the cash register is an essential function.)

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- Terms of a collective bargaining agreement
- Consequences of not requiring the incumbent to perform the function
- Work experience of past incumbents in the job
- Current work experience of incumbents in similar jobs

Direct Threat

An employer may require, as a qualification standard, that an individual not pose a direct threat to the health or safety of himself or herself or others. Like any other qualification standard, such a standard must apply to all applicants or employees and not just to individuals with disabilities. If, however, an individual poses a direct threat as a result of a disability, the employer must determine whether a reasonable accommodation would either eliminate the risk or reduce it to an acceptable level. If no accommodation exists that would either eliminate or reduce the risk, the employer may refuse to hire an applicant or may discharge an employee who poses a direct threat.

An employer, however, is not permitted to deny an employment opportunity to an individual with a disability merely because of a slightly increased risk. The risk can only be considered when it poses a significant risk, i.e., high probability, of substantial harm; a speculative or remote risk is insufficient.

Direct threat means a significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation. The determination that an individual poses a "direct threat" shall be based on an individualized assessment of the individual's present ability to perform safely the essential functions of the job. This assessment shall be based on a reasonable medical judgment that relies on the most current medical knowledge and/or on the best available objective evidence. In determining whether an individual would pose a direct threat, the factors to be considered include

- Duration of the risk
- Nature and severity of the potential harm
- Likelihood that the potential harm will occur
- Imminence of the potential harm

Unit Three

Undue Hardship Under the ADA

The term is generally defined as "requiring significant difficulty or expense." What criteria are used for establishing this defense?

- Size of the business
(If a facility is part of larger covered entity, the covered entity's financial resources will be taken into account.)
- Size of its budget
- Nature of its operation
- Number of employees
- Composition and structure of its workforce
- Nature and net cost of the accommodation

Enforcement of the ADA

The employment provisions of the ADA will be enforced under the same procedures now applicable to race, sex, national origin, and religious discrimination under Title VII of the Civil Rights Act of 1964. Charges may be filed with the Equal Employment Opportunity Commission or designated state human rights agencies.

Remedies

Available remedies include

- Hiring
- Reinstatement
- Back pay
- Court orders to stop discrimination

Since the passage of the Civil Rights Act of 1991, compensatory and punitive damages are also available under the ADA under certain circumstances.

Defenses

It may be considered a defense to a charge of discrimination based on the application of qualification standards, tests, or selection criteria that have denied jobs or benefits to disabled individuals, that the standards or criteria are job-related and consistent with business necessity, and performance cannot be accomplished by reasonable accommodation.

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Conflict with Other Federal Laws. It may be a defense to a charge of discrimination under this part that a challenged action is required or necessitated by another federal law or regulation, or that another federal law or regulation prohibits an action (including the provision of a particular reasonable accommodation) that would otherwise be required by this part.

Religious Organizations. Religious organizations may give preference in employment to individuals of a particular religion and may require that all applicants and employees conform to the religious tenets of their organization.

Food Handlers. An employer may refuse to assign or continue to assign an individual with an infectious communicable disease that is transmitted to others through the handling of food, when the disease is listed by the Secretary of Health and Human Services as a disease that may be transmitted through handling the food supply, and the risk cannot be eliminated by reasonable accommodation.

Direct Threat. It may be a defense to a charge of discrimination if the individual with a disability poses a direct threat to the safety or health to him or herself or others.

Undue Hardship. The possibility that any effective accommodation would cause the employer an undue hardship may also be considered a defense to a charge of discrimination.

Beyond ADA Requirements

Effective implementation of the ADA has benefits to employers and labor unions beyond legal requirement concerns. These include the following:

Expanded Labor Pool. By broadening our receptivity to recruitment and retention of workers who have disabilities, we expand the available pool of labor as a possible workforce.

Good Human Resource Management. Many of the practices suggested to implement the ADA are extensions of existing good human resource practices and do not necessitate radical changes but expansion of existing policies.

Enhanced Productivity. Some of the workplace practices suggested to assist in the reasonable accommodation process, such as individual consultation with the individual worker, job and task analysis, use of ergonomic analysis, are useful not only to assist the productivity of a worker with a disability, but can assist in enhancing the productivity of other workers in similar positions as well.

Disability Management–Cost Containment. Returning workers who have acquired disabilities to the workplace not only meets ADA compliance concerns but makes good sense for employers in terms of cost containment for Workers' Compensation and long-term disability costs.

Primary Prevention and Early Intervention. Assessing causes and possible prevention strategies of disablement in the workplace will assist in eliminating or lessening disability-related problems, a concern for both employers and workers.

UNIT FOUR

REASONABLE ACCOMMODATION PROCESS

REASONABLE ACCOMMODATION PROCESS

Process for Determining the Appropriate Reasonable Accommodation

Once a qualified individual with a disability has requested provision of a reasonable accommodation, the employer must make a reasonable effort to determine the appropriate accommodation. This process should be an informal, interactive problem-solving technique involving the employer and the qualified individual with a disability. This procedure is equally valid for making accommodations in the job application process and in providing equal benefits and privileges of employment.

An employer or union should take the following steps:

- Analyze the particular job involved and determine its purpose and essential functions
- Consult with the individual with the disability to ascertain the precise job-related limitations imposed by the person's disability and how those limitations could be overcome with a reasonable accommodation
- In consultation with the individual to be accommodated, identify potential accommodations and assess the effectiveness each would have in enabling the individual to perform the essential functions of the position
- Consider the preference of the individual to be accommodated and select and implement the accommodation that is most appropriate for both the employee and the employer

In some cases, neither the person who needs the accommodation nor the employer can readily identify the appropriate accommodation.

- The individual may not know enough about the equipment used or the nature of the worksite to suggest an appropriate accommodation. Likewise, the employer may not have enough knowledge of the person's disability or the limitations that disability would impose on the performance of the job to know which accommodation would work. In such a situation, the employer should first assess the job by analyzing the actual duties of the position to determine what is the true purpose or object of the job, and what are the essential functions of the job that the individual with a disability must perform with or without reasonable accommodation
- Then, in consultation with the individual, the employer should assess the specific limitations imposed by the disability on the person's performance of the job's essential functions
- If the consultation still does not reveal accommodation options, the employer should seek technical assistance from relevant local and regional sources such as: state or local vocational rehabilitation agencies or commissions for the blind, independent living centers, technology assistance centers, or specific professionals such as ergonomists, occupational or physical therapists, psychologists, or supported employment or vocational rehabilitation counselors.

Unit Four

Total Cost of Accommodation to Company*

Berkeley Planning Associates in collaboration with its subcontractor Harold Russell Associates completed for the Department of Labor (DOL) the first national survey of private-sector employers contracting with the government, concerning accommodation practices for persons with disabilities. A total of 2,000 federal contractors were surveyed, with 367 (18 percent) responding. Of those who responded and reported experience with accommodations, the following data suggest that accommodations rarely involved much expense. This is encouraging news for employers who are actively seeking effectively to implement the ADA within their organizations.

Cost	Frequency of Response	
	Number	Percent
None	458	51.1
\$1-99	169	18.5
\$100-499	109	11.9
\$500-999	57	6.2
\$1,000-1,999	39	4.3
\$2,000-4,999	35	3.8
\$5,000-9,999	9	1.0
\$10,000-14,999	8	0.9
\$15,000-19,999	6	0.7
\$20,000-or more	15	1.6
Total for which cost was reported	915	100.0

*From: Harold Russell Associates. *A Study of Accommodations Provided to Handicapped Employees by Federal Contractors*. Prepared for the U.S. Department of Labor, Employment Standards Administration (contract J-9-E-1-0009), June 1982.

Practices Toward Accommodations

Among firms with accommodation experience, the following practices can facilitate successful accommodation:

- Involving workers with disabilities in their own accommodation processes
- Expressions of commitment by top management to accommodating workers with disabilities
- Assigning a specialist within the Human Resources
- Establishing special procedures for reviewing and tracking
- Centralizing recruiting, intake, and monitoring of hiring decisions
- Identifying jobs or task assignments where a specific disability is not necessarily a hindrance

Unit Four

Selected Examples of Accommodations for Persons with Cognitive Support Needs

- Developing orientation for workers with disabilities, and their supervisors and coworkers
- Spreading the word inside the firm about successful experiences in accommodation
- In-service training of personnel staff, line managers, supervisors, and coworkers about nondiscrimination and accommodation
- Outreach to outside organizations able to refer job applicants with disabilities and to provide information on appropriate accommodations
- Sharing information and experiences about accommodations with other firms
- Continually reevaluating accommodations for current relevance to job requirements and the needs of the individual

All accommodation decisions must be made on a case-by-case basis, dependent upon the needs of the individual with a disability and the workplace. Often the best support for a person with a cognitive disability is if not the exact same, very similar to the support we need to provide to any new employee. Typically employers contribute a great deal of support to ensure a new employee's success. Some supports may include: assist the employee in learning rules and expectations; invite the employee to join in for lunch breaks; take time to learn about the person; provide clear and accurate training of job duties; teach a task/job duty without using shortcuts; assist the employee in learning the workplace culture; allow the person time to adjust to a new environment; provide easy access to co-workers and/or supervisor; show respect in correcting mistakes and in giving feedback.

Individuals with cognitive disabilities may need an array of supports in three critical domain areas: Cognitive, Physical, and Behavioral/Emotional. The table below outlines these areas

Cognitive Abilities	Physical Abilities	Behavioral/ Emotional Abilities
Attention Concentration Memory Reasoning Following Directions Organization Insight Problem Solving Prioritizing Decision Making Learning	Mobility Endurance/Strength Vision Hearing Fine Motor Coordination Speech Coordination of Body and Limbs Gross Motor Coordination	Social Interactions Tolerance Self-Esteem/Worth Sexuality Control Affect Temperament Emotional Stability

Unit Four

Some potential accommodations in the three critical domain areas are listed in the table below.

Potential Accommodations		
Cognitive	Physical	Emotional/Behavioral
Break duties into smaller steps	Create an accessible work station	Be consistent with your interactions
Create a checklist of duties and/or steps to be followed	Convert verbal communication to written communication	Provide praise and positive reinforcement
Provide written instructions to support verbal instructions	Provide sign language interpreters	Identify and train co-worker support team
Restructure job position, exchange tasks	Install adaptive telephone equipment	Allow longer or more frequent breaks
Allow for instructional/training redundancy	Provide transport carts	Provide employee assistance programs
Photograph elements of job sequence to use as reference	Adapt floor covering for easy mobility	Allow employee to work at home
Replace written job testing or selection instruments with demonstration	Exchange tasks to minimize need to move around	Provide immediate and consistent feedback
Provide/allow job coaching	Provide adaptive equipment	Allow for flexible scheduling
Train supervisors to provide honest and clear feedback	Train co-workers in alternate modes of communication	Provide easy access to a supervisor
Capitalize on employees strength and teach through that strength	Allow flexible scheduling for outside appointments	Allow telephone calls to to family or others for support
Use assistive technology if appropriate (records, computers, timers)	Allow for extra time in completing certain tasks	Provide clear expectations of job duties and work behaviors and consequences for not meeting them
Provide significant level of structure for job performance and communication	Provide readers or have co-workers share this task	Allow for individual space
Assign a co-worker as a mentor for support and as a role model	Conduct trainings and other events in accessible locations	Provide training for co-workers to support employee
Train co-workers how to		Allow employee to take

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UNIT FIVE

PROVIDING SUPPORTS AS PART OF THE ACCOMMODATION PROCESS

PROVIDING SUPPORTS AS PART OF THE ACCOMMODATION PROCESS

Definition of Supports

Our lives are comprised of a diverse array of mechanisms which sustain and maintain us (Murphy & Rogan, 1992). These mechanisms are commonly referred to as supports and generally take the form of:

- Verbal and Physical Assistance
- Social Relationships
- Verbal / Non-Verbal Interactions
- Backing
- Patronage
- Promotion
- Foundation
- Bracing
- Defense
- Justification
- Reasoning
- Subsidy
- Advocacy
- Endurance
- Tolerance

This array of support mechanisms assist us in obtaining, maintaining and progressing in certain avenues of our lives. Typically these supports are stand alone or paired together to bring about a certain outcome or set of goals. It is important to recognize that while supports are meant to enhance our lives, they can at times become barriers and pose implications for achieving goals which we desire to pursue.

While we typically think of supports provided in American Society as being somewhat exhaustive in nature, creatively paired together, the array of supports available in any one persons life are to numerous to be counted. This pairing of supports to meet individual needs creates a limitless array of possibilities, which if based on the person's needs, fosters a sense of belonging and connectedness to the environment the support is being provided in.

While there is currently much debate going on at the national level regarding definition of "natural supports" and what quantifies a natural support, for our purposes we refer to supports which are naturally-inherent to an environment

For Example:

If a person is starting a position as a supported employment recipient and the employer offers every employee a full-day of initial orientation to the job, then we want that employer to provide the same orientation to the employee with a disability. This would be a support naturally-inherent to that situation as compared to a job coach simply providing in lieu of what the employer provides.

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However,

If an employer provides no initial orientation to "any" employees and the employee we are placing needs a full-day orientation based on their support needs, the employee can request this as an accommodation. If it poses an undue hardship for the employer to provide this accommodation but they are willing to allow a job coach to provide it, it is still a support which is available through an inherent process, that being a dialogue of accommodations and supports the employer is willing to allow.

Ecology of the Workplace

To further understand the application of supports and reasonable accommodation, it is important to understand the ecology of the workplace. The ecology of any workplace is comprised of three critical components: physical, social, and organizational ecology (Rusch & Rusch, 1989).

Physical Ecology is comprised of the architectural and physical designs of an environment that may effect behavior.

Social Ecology is comprised of the interactions and interrelationships that exist between and among individuals and/or groups within the employment context.

Organizational Ecology is comprised of those policy and program factors in an employment setting that may influence individual and/or group behavior.

Four Levels of Integration

Within this ecological context exists four levels of integration which are critical to the successful assimilation of a person within a work environment (Hughes, Rusch & Curl, 1990).

Physical Integration refers to the proximity of coworkers to one another.

Social Integration refers to non-work related social interactions during work and free time.

Relationships are classified as ongoing social interactions that are reciprocal and extend beyond work.

Social Networks are comprised of repeated contact with a number of people who identify a relationship with a specific person as socially important and critical to them.

Typically, when considering the ADA and assisting persons with disabilities in obtaining and maintaining employment we have focused exclusively on the acquisition of job-specific tasks or essential job functions. While these are critical to successful employment and outlined clearly in the employment provisions (Title I) of the ADA, we now know that assuring a person's rights for access to equal employment opportunities and nondiscriminatory employment practices based on disability is but the first step in effective placement.

Unit Five

Definition of Work Culture

As important to the successful employment integration of a qualified individual with a disability as civil rights set forth in the ADA is the development of competency within the vocational rehabilitation practitioner to understand, evaluate, and make placement decisions based not only on the ecology of the workplace but also the culture.

As diverse the array of supports in a person's life is also the culture which comprises every workplace. Work culture is one step removed from the theories of workplace ecology to the implications posed by people's shared values within the workplace itself. Work culture is comprised of attitudes, experiences and subjective day-to-day occurrences. Becoming familiar with a given work culture is important because it gives the "flavor" of the work environment as a whole and helps the placement person understand what the critical factors are to ensuring the employees "full assimilation" into not just the work environment/place but its very culture.

Work culture includes (DiLeo, 1991):

- Work Stories
- Appearance / Dress
- Language
- Space
- Leadership Style
- Relationships / Cohesiveness
- Who's In Charge
- Status (Perceived and Self-Ascribed)
- Decision Making
- Humor
- Tricks of the Trade
- Level of Investment in Work
- Expectations of Performance
- Timing / Recurrent Conflicts
- History of Organization
- Gathering Places
- Eating Customs
- Celebrations
- Tolerance Level
- Flexibility
- Advocacy

While this is not an exhaustive list, it begins to draw a picture of other features within the workplace which hold the difference between acceptance and assimilation and only physical integration or even rejection.

Identifying Support Needs of Individuals with Disabilities

Identifying an individual's support needs begins with identifying the potential job of interest to the person desiring to work. This process is not a blanket evaluation during which a person's capacities and "deficits" are identified separate from the employment situation. The opposite in fact. It is a person-centered, capacity-based process which begins with a group of invested players in the person's life assisting the individual in defining their interests and preferences, capacities and formulating a career pursuit plan.

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An outline of this process is provided:

- Facilitate the development of a person-centered planning team.
- Establish ground rules and focus of the group based on consumer interests.

If interest in pursuing employment exists, then:

- Identify skills and capacities and prior experiences upon which to build (through vocational profile process, interviews, observation, record review, etc...);
- Develop a profile of "who" the person is, "where" they see themselves right now, and "what" directions they want to take in their life;
- Determine as a team the potential supports needed to achieve the above objectives;
- Initiate activities to secure family supports, residential supports, and other supports necessary to achieve the above objectives;
- Consider and identify, as a team, options in employment which will enable the person to realize their dream;
- Upon identifying employment option, begin determining persons qualification for meeting the requirements of the job and what supports are inherently available;
- Match available supports to support needs of the person to determine areas in which accommodation may need to be provided;
- Facilitate discussions regarding potential accommodations and supports (both inherent to the workplace and externally imposed); and
- Make decision based on consumer's interest, ability to meet job requirements and support plan developed as to whether this is a viable match.

Identifying Naturally-Inherent Supports within the Work Environment

Prior to imposing externally-imposed supports within the work environment it is critical to evaluate the availability of supports naturally inherent. Externally-imposed supports should only be used when the quality of available supports is not sufficient to sustain the person or when inherent supports are not available at all. Externally-imposed supports should be used to enhance, clarify and further distinguish supports available naturally.

Michigan State University outlined a process by which we force ourselves to explore typical activities and supports available.

- **Goal.** Describe the individual's goal.
- **Typical Activities.** Review the typical activities that people engage in to achieve that goal.
- **Typical supports.** Review the typical supports people receive for those activities. Consider who provides what types of support, and under what circumstances.
- **Individual Assessment.** How can the individual participate in the typical activities.
- **Individual's Supports.** Of the typical supports, which exist for the individual?
- **Needs.** If there is a difference between what typically happens to meet the goal and what is currently possible for the person, describe what more is needed.
- **Service Provider's Role.** Determine the service provider's role in achieving the goal.

Unit Five

Other tools to assist in identifying naturally-inherent supports include the same process by which you would investigate work culture:

- Spend time there.
- Interview employees (past and present).
- Observe interactions.
- Listen.
- Assess current human resources practices of employer.

In many situations identifying a support "up-front" may reduce the need for requesting a reasonable accommodation later.

As mentioned earlier, identifying supports at the beginning of the placement process may alleviate the need for provision of an accommodation down the road. There are several principles of matching for consideration:

- A support match is developed between the identified behaviors that require supports and the identified available or potential support inherent to the workplace.
- Always remain unobtrusive when evaluating what exists naturally. Your very presence may modify or alter performance.
- When facilitating a match, explore all possible support matched to ensure "best fit".
- When evaluating "best fit" the employee is always the litmus test.
- The employee is ultimately the one who will be accessing the support. If they are not comfortable, its effectiveness will not be maximized.

Matching Available Supports to Person's Needs

Benefits of Using Supports Naturally-Inherent to the Workplace

Benefits for using supports which are naturally inherent to a workplace are as vast as the variety of supports. Using and facilitating these types of support is not simply a "practice", but rather a value which has at its very heart the inclusion and assimilation of a person with a disability into their natural environments. A few benefits include:

- Maximizes full inclusion of person being supported.
- Allows relationship to build naturally.
- Generally, people do better when working together.
- Builds natural cues.
- Increases interdependence.

Unit Five

Examples of Some Supports Naturally- Available Within a Work Environment

- Builds employee's self-confidence.
- Creates more options.
- Connects employee.
- Builds employer and community support/cooperation.

It is important to recognize that these supports may not exist in "all" work environments and are provided as only an example of possible supports to look for.

- Performance Appraisal Systems
- Bells / Alarms
- Orientation and Training
- Advice
- Car Pools
- Flexible Hours
- Social Interactions
- Employee Assistance Programs
- Performance and Verbal Prompts
- Public Transport
- Environmental Cues
- Co-workers
- Child Care
- Career Planning



UNIT SIX

OVERVIEW OF TITLE II

OVERVIEW OF TITLE II

Public Entity

- Any State or local government;
- Any department, agency, special purpose district, or other instrumentality of a State or States or local government; and
- Certain commuter authorities, and AMTRAK

What Activities are Covered?

- The operation of all services and programs offered by the entity.
- All aspects of the employment relationship.
- Government services carried out by contractors.
- Activities of state and local legislative and judicial branches.
- Public Transportation

General Nondiscrimination Requirements

No qualified individual with a disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.

A public entity, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability—

- Deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit, or service;
- Afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;
- Provide a qualified individual with a disability with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others.

This mandate is very broad, however in the regulations, eight areas are specifically identified in terms of nondiscrimination:

1. **Equal Opportunity.** Public Entities must provide individuals with disabilities equal opportunity to participate in those activities and programs provided by the entity. In addition to the equal opportunity to participate, the Public entity must ensure *effective* participation, providing separate benefits or services only when it is necessary to provide equal opportunity.
2. **Integrated Programs.** Services and programs of Public Entities must be delivered in the most integrated setting appropriate, even if separate programs exist. People with disabilities must have the right to choose to participate in either the "regular" or the separate programs. For example, if a person who uses a wheelchair wanted to tour a county museum of natural history and the museum offered a tour for people with disabilities and a tour for other patrons, the person can choose to participate with the tour that is not specified for people with disabilities.
3. **Methods of Administration** Title II of the ADA requires that Public Entities do not use official written policies that are discriminatory or

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engage in actual practices that are discriminatory. For example, a county-run shelter for the homeless cannot have a policy that refuses participation to people who use wheelchairs.

4. Contractors. In the selection of procurement contractors, public entities cannot use criteria that discriminate against people with disabilities. For example, a Village government cannot refuse to contract with a copying service that is run by people with disabilities simply because of their disabilities.
5. Licensing and Certification. Whereas State and Local governments have responsibility for certification of individuals, (such as nurses, doctors, Realtors, etc.) qualified individuals with disabilities cannot be denied licensure or certification if the person meets the essential eligibility requirements for the task involved. Examinations must be conducted in an accessible place and manner, and if necessary, include the provision of auxiliary aids.
6. Reasonable Modification of Policies, Practices, and Procedures. Public entities must be willing to modify their policies, practices and procedures when necessary to avoid discrimination against people with disabilities unless to do so would fundamentally alter the nature of the service, program or activity. For example, if a local town requires that taxpayer pay their taxes in person, and a individual who is blind has a service animal, the town's policy of no animals, must be modified to allow the person entry into their offices.
7. Eligibility Criteria. Eligibility criteria that tends to screen out people with disabilities cannot be used unless such eligibility criteria is necessary for the provision of the services, program, or activity. For example, a recreation department cannot require that all participants in their aerobics class have full use of all of their arms and legs for determination of participation in their program.
8. Surcharges. Public Entities are prohibited from assessing surcharges on people with disabilities to offset the cost of providing access. For example, a city pool cannot charge people with disabilities more to swim to offset the cost of the new pool lift they have purchased to provide access to the water.

Program Accessibility

Program accessibility is the standard against which programs and services will be measured for purposes of ADA compliance. Different elements of program access include, access to existing facilities, fundamental alteration and undue burden, historic preservation, new construction and alterations, leases and maintenance of accessible features.

Access to Existing Facilities: People with disabilities cannot be excluded from the programs, activities or services offered by a public entity because of inaccessible features. The law permits some flexibility in how the standard can be met, by allowing both structural and non-structural methods of achieving program access, such as:

- Reassignments of services to accessible location

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- Home visits
- Purchase of redesign equipment
- Structural change - this is the final step to achieve access, if other options are not possible. *NOTE: Deadline for structural changes was January 26, 1995. In selecting an option, the priority is always on providing services in the most integrated way possible.*

Undue Burden and Fundamental Alterations: No public entity is required to take action for provision of program access that would result in fundamental alteration of the program, service or activity or would pose an undue financial or administrative burden. If this is the case, then the entity is still obligated to search for alternative means of providing access so that people with disabilities can still participate in the program, service, or activity.

New Construction and Alteration to Existing Facilities: All new construction and alterations to existing facilities must be readily accessible to and usable by people with disabilities. Two standards that are utilized are the ADA Accessible Guidelines, (ADAAG) and the Uniform Federal Accessibility Standards (UFAS). Final guidelines of the ADAAG specifically relating to Title II Entities have been issued by the ACCESS Board and are being utilized.

Historic Preservation Programs: Buildings that are eligible for listing in the National Register of Historic Places or designated as historic under state or local law are treated as a special case under the ADA. These programs are not required to take any action that would threaten or destroy the historic significance of the property.

Leases: Title II regulations recommend but do not require that public entities try to lease accessible space. Facilities that are leased by a public entity are still subject to the overall program access standards.

Maintenance of Accessible Features: As a means of ensuring that ongoing access is provided, maintenance of accessible features is specifically required. For example, accessible doors cannot be locked or blocked, this includes barriers such as snow in front of or during an accessible route that prohibits access.

Effective Communication

Public entities are required that applicants, participants and members of the general public with disabilities have communication access that is equally effective as that provided to people without disabilities.

Auxiliary aids and services

- Qualified interpreters, note takers, transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed captioned decoders, open and closed captioning, telecommunications devices for deaf persons (TTY's), Videotext displays, or other effective methods of marketing aurally delivered materials available to individuals with hearing impairments;
- Qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments;

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Guidelines for Determination of Provision of Auxillary Aids and Devices

Factors that may Influence Whether a Particular Aid of Service Provides Effective Communication

Administrative Requirements

- Acquisition or modification of equipment or devices; and
- Other similar services and actions.
- **For people with cognitive disabilities:** readers, communication assistants, use of clear and concise language, pictograms, and graphic presentation of information

*NOTE: A **qualified** interpreter is one who is able to interpret effectively, accurately, and impartially both receptively and expressively, using any necessary specialized vocabulary.*

- Public entities must give "primary consideration" to the preference of the person with a disability.
- Public entities must provide *effective* means of communication.
- Public entities are not required to take actions that would cause undue burdens.

The Duration and Complexity of the Communication

Longer, more detailed exchanges often require more powerful and faster modes of communication.

The Context of the Communication

Environmental conditions often influence the effectiveness of communications using various devices and techniques. For example, the difference between an indoor office setting and an outdoor recreational setting.

The Number of People Involved

Communication techniques that are effective between two people may not work well in a group context.

The Importance and Potential Impact

Some communications such as those involving legal, financial, health, and safety issues are more important than others and should be provided in ways that guard against errors, omissions, and misunderstandings.

- entities employing 50 or more must designate an ADA coordinator by 1/26/92
- entities employing 50 or more must adopt an ADA grievance procedure by 1/26/92
- non-structural changes for program accessibility must be initiated by 1/26/92
- public notice of non-discrimination policies must be provided as of 1/26/92

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- entities employing 50 or more must prepare a transition plan describing structural changes required for program accessibility by 7/26/92
- all entities must conduct a self-evaluation of all programs and services by 1/26/93
- structural changes required for program accessibility must be completed by 1/26/95
- entities employing 50 or more must retain documentation of self-evaluation and transition plans, including individuals consulted, for three years.

Self-Evaluation

A public entity shall, by January 26, 1993, evaluate its current services, policies, and practices, and the effects thereof, that do not or may not meet the requirements of this part and, to the extent modification of any such services, policies, and practices is required, the public entity shall proceed to make the necessary modifications.

A public entity shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the self-evaluation process by submitting comments.

Notice

A public entity shall make available to applicants, participants, beneficiaries, and other interested persons information regarding the provisions of this part and its applicability to the services, programs, or other activities of the public entity, and make such information available to them in such manner as the head of the entity necessary to apprise such persons of the protections against discrimination assured them by the Act and this part.

Enforcement

There are three ways to seek resolution of a complaint against a state or local government entity:

- Utilize the entities grievance procedure
- File an administrative complaint, or
- File a lawsuit

Administrative complaints must be filed with the appropriate federal agency or with the Department of Justice within 180 days of the alleged discrimination. An appropriate federal agency may be any federal agency providing funding to the entity, or to the Department of Justice who will then forward the complaint to the appropriate entity. Complaints will be resolved by informal means or by a letter of findings that highlights actions necessary to remedy violations. If the dispute cannot be settled through negotiations, and the suit is sent back to the Department of Justice, then they themselves may file suit.

UNIT SEVEN

OVERVIEW OF TITLE III

OVERVIEW OF TITLE III

Coverage

- Public Accommodations
- Other Commercial Facilities
- Entities Offering Courses or Examinations

General

Prohibition of Discrimination. No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodations by any private entity who owns, leases (or leases to), or operates a place of public accommodations.

Three areas of obligations:

1. Nondiscrimination obligations
2. Effective communication
3. Facility accessibility
 - Removal of barriers
 - New construction and alterations

Landlord and Tenant Responsibilities. Both the landlord who owns the building that houses a place of public accommodation and the tenant who owns or operates the place of public accommodation are public accommodations subject to the requirements of this part. As between the parties, allocation or responsibility for complying with the obligations of this part may be determined by lease or other contract.

Existing Facilities. As of January 26, 1992, facilities must undertake "barrier removal" where "readily achievable". Readily achievable means able to do without much difficulty or expense. If barrier removal is not readily achievable, alternative means of access must be provided. Examples are:

- curbside service
 - home delivery
 - retrieval of goods
- (All done without additional charge to the individual)*

Place of Public Accommodation

A facility, operated by a private entity, whose operations affect commerce and fall within at least one of the following categories:

- An inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor;
- A restaurant, bar, or other establishment serving food or drink;
- A motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment;
- An auditorium, convention center, lecture hall, or other place of public gathering;
- A bakery, grocery store, clothing store, hardware store, shopping center, or other sales and rental establishment;

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- A Laundromat, drycleaners, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office, professional office of a health care provider, hospital, or other service establishment;
- A terminal, depot, or other station used for specified public transportation;
- A museum, library, gallery, or other place of public display or collection;
- A park, zoo, amusement park, or other place of recreation;
- A nursery, elementary, secondary, undergraduate, or postgraduate private school, or other place of education;
- A day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and
- A gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

**Commercial
Facilities**

The requirements for Title III for new construction and alterations cover commercial facilities, which include non-residential facilities, such as office buildings, factories and warehouses, whose operations affect commerce.

Exempted facilities are facilities that are covered or expressly exempted from coverage from the Fair Housing Amendments Act of 1968, (as amended in 1988), and aircraft or rail vehicles.

Title III requirements for new construction and alterations apply to commercial facilities.

Exemptions

- Private clubs
- Religious Entities, including secular and religious activities

Criteria for Private Clubs Exemption:

- Members exercise control
- Membership process is selective
- Fees are substantial
- Operation is non profit
- Purpose is not to avoid civil rights law

NOTE: Non-profit organizations are not exempt from ADA obligations

**Other
Requirements**

Policies, practices, and rules must be reasonably modified to accommodate the needs of people with disabilities unless such modifications are not readily achievable. Auxiliary aids and services may also be required.

New facilities designed and constructed for first occupancy after January 26, 1993, must be accessible, as per the requirements in the ADA Accessibility Guidelines. This includes commercial facilities and public accommodations in private residences. There is no cost defense for non-compliance.

Alterations to existing facilities begun after January 26, 1992 must be readily accessible to and usable by people with disabilities to the maximum extent

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feasible. Alterations changes the usability of the facility, they include: remodeling, renovation, rearrangements in structural parts, and changes in walls and full-height partitions. When alterations to primary function areas are made, an accessible path of travel must be provided to the altered area, and the restrooms, telephone and drinking fountains serving the altered area must also be accessible. This must be done to the extent that the added accessibility costs are not disproportionate to the overall alterations costs. That is, to the extent that the added accessibility costs do not exceed 20 percent of the cost of the original alteration to the primary function area.

Elevators are not required in newly constructed or altered buildings under three stories or with less than 3000 square feet per floor, unless the building is a shopping center, mall, or health provider's office. The Attorney General may determine that additional categories of such buildings require elevators.

Architectural and communication barriers in existing facilities must be removed if removal is "readily achievable," and can be undertaken without much difficulty or expense. If not, alternative methods of providing services must be offered, if those methods are readily achievable.

- a. Factors to be considered in determining if an action is "readily achievable" are similar to those considered to establish "undue hardship" under Section 503 and 504, although a significantly reduced burden is imposed, i.e., can barrier removal be undertaken without much difficulty or expense?
- b. Priorities for barrier removal are:
 - (1) access/egress
 - (2) areas where goods/services are available
 - (3) restrooms
 - (4) other areas/services

Examinations and Courses. Any private entity that offers examinations or courses has specific obligations for access for people with disabilities under the ADA. Their requirements apply to applications, licensing, certification or credentialing for secondary or post secondary education, professional or trade purposes. The courses and exams must be offered in an accessible place and manner; they must measure those indicators that are intended to be measured, not a disability; if readily achievable, they must provides those aids and services needed for effective communication; and can require advance request of need for accommodations, if the deadline for requests is not earlier for the person with a disability than other participants.

Enforcement

Aggrieved parties may seek enforcement against private entities by:

- filing a complaint with the Department of Justice
- filing suit in Federal District Court

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Suits by the Department of Justice may be filed after a negotiation period is ineffective and when there is reasonable cause to believe that a pattern and practice of discrimination exists and when the alleged discrimination raises a matter of general public importance. Civil penalties may be assessed:

- not to exceed \$50,000 for the first violation
- not to exceed \$100,000 for subsequent violations

Money damages to individuals may be awarded when requested by the Department of Justice.

Private lawsuit remedies include:

- restraining orders
- injunctions
- attorneys' fees

Compensatory, or punitive damages, or civil penalties are not available.

APPENDIX A

DIRECTORY OF ILLINOIS STATE ADA RESOURCES

DIRECTORY OF ILLINOIS STATE RESOURCES

Americans with Disabilities Act Information, Technical Assistance and Enforcement:

Coalition of Citizens with Disabilities in Illinois
401 East Adams Street
Springfield, IL 62702
VOICE/TDD/TTY: 217-522-7016
VOICE/TDD/TTY: 800-433-8848

Centers for Independent Living
(See complete listing under Centers for Independent Living)

Equal Employment Opportunity Commission
1801 L Street, N.W.
Washington, DC 20507
VOICE: 800-669-4000
TTY/TDD: 800-800-3302

Chicago District Office
536 South Clark Street, Room 930-A
Chicago, IL 60605
VOICE: 312-353-2713
VOICE: 800-669-4000
TTY-TTD: 312-353-2421

St. Louis District Office
624 North Euclid Street, 5th Floor
St. Louis, MO 63108
VOICE: 314-425-6585
VOICE: 800-669-4000
TTY/TDD: 314-279-6547

Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554
VOICE: 202-632-7260
TTY/TDD: 202-632-6999

Great Lakes Disability and Business Technical
Assistance Center
1640 West Roosevelt Road
Chicago, IL 60608
VOICE/TTY/TDD: 800-949-4232

Illinois Department of Rehabilitation Services
VOICE/TTY/TDD: 1-800-ASK DORS
(1-800-275-3677)

Illinois Planning Council on Developmental
Disabilities
830 South Spring
Springfield, IL 62704
VOICE: 217-782-9696

Job Accommodation Network
918 Chestnut Ridge Road, Suite 1
P. O. Box 6080
Morgantown, WV 26506-6080
Accommodation Information:
VOICE/TTY/TDD: 800-526-7234
ADA Information:
VOICE/TTY/TDD: 800-232-9675

President's Committee on Employment of
People with Disabilities
1331 F Street, N.W.
Washington, DC 20004
VOICE: 202-376-6200
TTY/TDD: 202-376-6205

U.S. Department of Justice
Civil Rights Division
Office on the Americans with Disabilities Act
P. O. Box 66118
Washington, DC 20035-6118
VOICE: 202-514-0301
TTY/TDD: 202-514-0381

U.S. Department of Transportation
400 7th Street, S.W.
Washington, DC 20590
VOICE: 202-366-4390
TTY/TDD: 202-366-2979
TTY/TDD: 202-755-7687

DIRECTORY OF ILLINOIS STATE RESOURCES

(Continued)

Americans with Disabilities Act Financial Incentives and Information:

ADA Compliance Program for City of Chicago
Miriam Santos City Treasurer
Room 206 City Hall
Chicago, IL 60602

312-744-3360

Provides loans to Chicago-based businesses to
comply with the ADA

U.S. Small Business Administration
300 South Riverside Plaza, Suite 1975 South
Chicago, IL 60606
312-353-0359

Internal Revenue Service
U.S. Department of the Treasury
1111 Constitution Avenue, N.W.
Washington, DC 20224
VOICE: 202-566-3292
TTD: 202-829-4059

Provides information on tax credits and tax de-
ductions for businesses to comply with the ADA

Centers for Independent Living:

Access Living of Metropolitan Chicago
310 South Peoria
Chicago, IL 60607
VOICE: 312-226-5900
TDD: 312-226-1687

Central Illinois Center for Independent Living
614 West Glen
Peoria, IL 61614
VOICE: 309-682-3500
TDD 309-682-3567

DuPage County Center for Independent Living

400 East 22nd Street
Lombard, IL 60148
VOICE/TDD: 708-916-9666

Fox River Valley Center for Independent Living
730 B. West Chicago Street
Elgin, IL 60123
VOICE/TDD: 708-695-5818

Illinois-Iowa Center for Independent Living
P. O. Box 6156
Rock Island, IL 61204-6156
VOICE/TDD: 319-324-1460

Impact Center for Independent Living
2735 East Broadway
Alton, IL 62002
618-462-1411

Lake County Center for Independent Living
706 East Hawley
Mundelein, IL 60060
708-949-4440

Living Independently for Everyone (LIFE)
1328 East Empire
Bloomington, IL 51701
VOICE: 309-663-5433
TDD: 309-663-8806

Living Independently Now Center for
Independent Living
10 East Washington
Belleville, IL 62220
VOICE/TDD: 618-235-9988

Northwestern Illinois Center for Indepen-
dent Living
205 Second Avenue
Sterling, IL 61081
VOICE: 815-625-7860
TDD: 815-625-7863

DIRECTORY OF ILLINOIS STATE RESOURCES

(Continued)

Opportunities for Access
3300 Broadway
Mount Vernon, IL 62864
VOICE: 618-244-9212
TDD: 618-244-9575

Options Center for Independent Living
61 Meadowview Center
Kankakee, IL 60901
VOICE/TDD: 815-936-0100

Persons Assuming Control of Their Environment
(PACE)
Sunnycrest Mall
Urbana, IL 61801
VOICE: 217-344-5433
TDD: 217-344-5024

Progress Center for Independent Living
320 West Lake Street
Oak Park, IL 60302
VOICE: 708-524-0600
TDD: 708-524-0690

Regional Access and Mobilization Project (RAMP)
1040 North Second Street
Rockford, IL 61107
VOICE/TDD: 815-968-7567

Southern Illinois Center for Independent Living
100 North Glenview
P. O. Box 627
Carbondale, IL 62903
VOICE/TDD: 618-457-3318

Soyland Access to Independent Living (SAIL)
1800 East Lake Shore Drive
Decatur, IL 62521
217-362-9060

Springfield Center for Independent Living
426 West Jefferson
Springfield, IL 62702
VOICE/TDD: 217-523-2587

West Central Illinois Center for Independent Living
Durst Building
406 North 24th Street
Quincy, IL 62301
VOICE: 217-223-0400
TTY: 217-223-0475

Will/Grundy Center for Independent Living
2415 A West Jefferson Street
Joliet, IL 60435
VOICE: 815-729-0162
TDD: 815-729-2085

APPENDIX B

REFERENCES AND SUGGESTED READINGS ON NATURAL SUPPORTS

Excerpted in part from materials developed under the project entitled, "Using Natural Worksite Supports to Enhance Supported Employment Outcomes," funded by the National Institute on Disability and Rehabilitation Research grant #H133G00159-92. A collaborative project between: the National Center for Disability Services Research and Training Institute; the Program on Employment and Disability in the School of Industrial and Labor Relations at Cornell University; and the New York State Education Department Vocational and Educational Services for Individuals with Disabilities.

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